

MONTANA LEGISLATIVE HISTORY

Chapter 344 19 92

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H. Committee on Judiciary

Hearing Date(s) Jan 07 ✓ C

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Date Out _____ C

S. Committee on Judiciary

Hearing Date(s) Mar 05 ✓ C

Mar 07 ✓ C

_____ C

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Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

1 HOUSE BILL NO. 46
2 INTRODUCED BY KVAALEN
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5 CLARIFY THE LAWS RELATING TO THE JUDICIARY AND THE COURTS OF
6 THE STATE OF MONTANA."
7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 Section 1. Section 10-1220, R.C.M. 1947, is amended to
10 read as follows:
11 "10-1220. Adjudicatory hearing. (1) Prior to any
12 adjudicatory hearing, the court shall determine whether the
13 youth admits or denies the offenses alleged in the petition.
14 If the youth denies all offenses alleged in the petition,
15 the youth, his parent, guardian, or attorney may demand a
16 jury trial on such contested offenses; in the absence of
17 such demand, a jury trial is waived. If the youth denies
18 some offenses and admits others, the contested offenses may
19 be dismissed in the discretion of the youth court judge. The
20 adjudicatory hearings shall be set forthwith immediately and
21 accorded a preferential priority.
22 (2) An adjudicatory hearing shall be held to determine
23 whether the contested offenses are supported by proof beyond
24 a reasonable doubt in cases involving a youth alleged to be
25 delinquent or in need of supervision. If the hearing is

1 before a jury, the jury's function shall be to determine
2 whether the youth committed the contested offenses; if the
3 hearing is before the youth court judge without a jury, the
4 judge shall make and record his findings on all issues. If
5 the allegations of the petitions are not established at the
6 hearing, the youth court shall dismiss the petition and
7 discharge the youth from custody.
8 (3) An adjudicatory hearing shall be recorded verbatim
9 by whatever means the court ~~deems~~ considers appropriate.
10 (4) The youth charged in a petition must be present at
11 the hearing and if brought from detention to the hearing,
12 shall not appear clothed in institutional clothing.
13 (5) In a hearing on a petition under this section, the
14 general public shall be excluded and only such persons
15 admitted as have a direct interest in the case; except that
16 when a hearing in the court is held on a written petition
17 charging the commission of a felony, persons with a
18 legitimate interest in the proceeding, including
19 representatives of public information media, shall not be
20 excluded from the hearing.
21 (6) If the court finds on the basis of a valid
22 admission by a youth of the allegations of the petition or
23 if a youth is found to be a delinquent youth or a youth in
24 need of supervision the court shall schedule a dispositional
25 hearing under this act.

(7) When a jury trial is required in a case, it may be held before the regular trial panel. If the regular panel is not in attendance, the court may draw a jury from jury box. ~~Now 3. a jury selected as provided in Title 93, chapter 59.~~

Section 2. Section 11-1601, R.C.M. 1947, is amended to read as follows:

"11-1601. City court established ~~when open~~. A city court is established in each city or town. ~~The~~ which court must always be open, ~~except upon~~ on nonjudicial days, ~~and upon such days it may transact criminal business only.~~"

Section 3. There is a new R.C.M. section numbered 11-1601.1 that reads as follows:

11-1601.1 Election and terms of office of city judges. The election of city judges and their terms of office are provided for in Title 11, chapter 7.

Section 4. Section 11-1602, R.C.M. 1947, is amended to read as follows:

"11-1602. ~~jurisdiction of city courts~~ Concurrent jurisdiction. (1) The city court has concurrent jurisdiction with the justices' ~~justice's~~ court of all misdemeanors punishable by a fine not exceeding five hundred dollars ~~{ \$500 }~~ or by imprisonment not exceeding six ~~{ 6 }~~ months, or by both fine and imprisonment, ~~under the following conditions:~~

~~{ 1 } Any action charging the commission of an offense~~

~~within the city or town limits in violation of a city or town ordinance shall be brought in the name of the city or town as the plaintiff and against the accused as the defendant.~~

~~{ 2 } Any other action brought for violation of a state law within the city shall be brought in the name of the state of Montana as the plaintiff and against the accused as the defendant.~~

~~{ 3 }~~ (2) Application Applications for search warrants and complaints charging the commission of a felony may be filed in the city or town court, ~~and when~~ when they are so filed, the city judge ~~shall have~~ has the same jurisdiction and responsibility as a justice of the peace, including the holding of a preliminary hearing. The city attorney may file an application for a search warrant or a complaint charging the commission of a felony when the offense was committed within the city limits. The county attorney, however, must handle any action after a defendant is bound over to district court."

Section 5. Section 11-1603, R.C.M. 1947, is amended to read as follows:

"11-1603. ~~jurisdiction for violation of ordinances and civil and criminal jurisdiction~~ Exclusive jurisdiction. The police city court also has exclusive jurisdiction of:

~~{ 1 }~~ (1) Of all proceedings for the violation of any an

1 ordinance of the city or town, both civil and criminal;
 2 ~~which must be prosecuted in the name of the city or town;~~
 3 2*(2) ~~Of any action when the amount of the taxes or~~
 4 ~~assessments sought does not exceed \$300, actions for the~~
 5 ~~collection of taxes and or assessments levied for any of the~~
 6 ~~following purposes, except that no lien on the property~~
 7 ~~taxed or assessed for the nonpayment of the taxes or~~
 8 ~~assessment may be foreclosed in any such action:~~
 9 (a) city or town purposes; or
 10 (b) for the erection or improvement of public
 11 buildings;
 12 (c) for the laying out, or opening, or improving any
 13 of a public street, or sidewalk, alley, or bridge; or
 14 (d) for the purpose of acquisition or the improvement
 15 of any public grounds; or and
 16 (e) ~~for any and all~~ public improvements made or
 17 ordered by the city or town within its limits; ~~when the~~
 18 ~~amount of the tax or assessments sought to be collected~~
 19 ~~against the person assessed does not exceed three hundred~~
 20 ~~dollars; but no lien upon the property taxed or assessed for~~
 21 ~~the nonpayment of the taxes or assessment can be foreclosed~~
 22 ~~in any such action;~~
 23 3*(3) ~~Of an action~~ actions for the collection of money
 24 due to the city or town or from the city or town to any
 25 person, when the amount sought ~~to be collected~~, exclusive of

1 interest and costs, does not exceed ~~three hundred dollars~~
 2 ~~\$300;~~
 3 4*(4) ~~For when the amount claimed, exclusive of costs,~~
 4 ~~does not exceed \$300, actions for:~~
 5 (a) the breach of any an official bond given by any a
 6 city or town officer; and
 7 (b) for the breach of any contract; and
 8 (c) ~~any action for~~ damages, in which when the city or
 9 town is a party, or is in any way interested; and
 10 (d) ~~at the enforcement of~~ forfeited recognizances
 11 given to, or for the benefit of, or in on behalf of the city
 12 or town; and
 13 (e) ~~upon all collection on~~ bonds given upon any an
 14 appeal taken from the judgment of the court in any action
 15 ~~mentioned in subsections (4)(a) through (4)(d) above named;~~
 16 ~~where the amount claimed, exclusive of costs, does not~~
 17 ~~exceed three hundred dollars;~~
 18 5*(5) For actions for the recovery of personal
 19 property belonging to the city or town, when the value of
 20 the property, (exclusive of the damages for the taking or
 21 detention), does not exceed ~~three hundred dollars~~ \$300; and
 22 6*(6) ~~Of an action~~ actions for the collection of any a
 23 license ~~fee~~ required by any an ordinance of the city or
 24 town."
 25 Section 6. There is a new R.C.M. section numbered

1 11-1603.1 that reads as follows:

2 11-1603.1. Who named as plaintiff. (1) An action
3 brought for violation of a city or town ordinance shall be
4 brought in the name of the city or town as the plaintiff and
5 against the accused as the defendant.

6 (2) An action brought for violation of a state law
7 within the city or town shall be brought in the name of the
8 state of Montana as the plaintiff and against the accused as
9 the defendant.

10 Section 7. Section 11-1604, R.C.M. 1947, is amended to
11 read as follows:

12 "11-1604. When substitute for judge called in cannot
13 act. The city judge or mayor may call in a justice of the
14 peace or some qualified resident of the city or town to act
15 in the judge's place, whenever the judge is:

16 (1) ~~in all cases in which the judge is a party in a~~
17 ~~case;~~ or

18 (2) ~~in which he is interested in a case;~~ or

19 (3) ~~when he is related to either party in a case by~~
20 ~~consanguinity or affinity within the sixth degree;~~ and ~~or~~

21 (4) ~~in case of his sickness sick, absence absent, or~~
22 ~~inability unable to act;~~ the police judge or mayor may call
23 ~~in a justice of the peace, or some qualified resident of the~~
24 ~~city or town, to act in his place and stead."~~

25 Section 8. Section 11-1710, R.C.M. 1947, is amended to

1 read as follows:

2 "11-1710. Summons -- time for answer. ~~Summons~~ the
3 summons in municipal court shall be signed by the clerk and
4 shall conform as near as ~~may be possible~~ to the provisions
5 of ~~section 93-3003~~ M. R. Civ. P., Rules 4 and 12(a), except
6 that the time for answering shall be ~~ten~~ 10 days, instead of
7 ~~twenty~~ 20."

8 Section 9. Section 11-1711, R.C.M. 1947, is amended to
9 read as follows:

10 "11-1711. Practice -- reply. The provisions of
11 ~~sections 93-6901 to through 93-7405, inclusive~~ and ~~sections~~
12 ~~93-7701 to through 93-7714, inclusive~~ are hereby ~~adopted~~
13 ~~and made~~ applicable to practice and procedure in municipal
14 court, except where ~~when~~ the same they are repugnant to the
15 provisions of this act. ~~The the~~ words "Municipal Court
16 municipal court" being substituted for justice court and
17 "judge" for justice of the peace ~~where the same appears in~~
18 ~~said chapters. Where whenever~~ the answer contains a
19 counterclaim or any new matter, the plaintiff ~~if he does~~
20 ~~not demur~~ shall within ~~five~~ 5 days after the service and
21 filing of the answer ~~reply to such the~~ counterclaim or new
22 matter in the manner and form provided for in section
23 ~~93-3003~~ M. R. Civ. P., Rules 7(a), 5(e)(2), and 13(a)."

24 Section 10. Section 16-3001, R.C.M. 1947, is amended
25 to read as follows:

1 "16-3001. Duties and records to be kept. The clerk of
2 the district court, in addition to the duties prescribed
3 elsewhere, must shall:

4 ~~1. (1) Take take~~ charge of and safely keep, or dispose
5 of according to law, all books, papers, and records which
6 may be are filed or deposited in his office;

7 ~~2. (2) Act act~~ as clerk of the district court, and
8 attend each term or session thereof, and upon the judges at
9 chambers when required;

10 ~~3. (3) Issue issue~~ all process and notices required to
11 be issued;

12 ~~(4)~~ enter all orders, judgments, and decrees proper to
13 be entered;

14 ~~(5)~~ keep in each court a register of action, as
15 provided in ~~the code of civil procedure 23-8707~~, which must
16 also state the names of the attorneys and all fees charged
17 in each action, ~~and a list of all the fees charged~~;

18 ~~4. Keep for the district court, in separate volumes,~~
19 ~~an index of all suits, labeled "General index--Plaintiffs"~~
20 ~~each page of which must be divided into seven columns, under~~
21 ~~their respective heads, alphabetically arranged as follows:~~
22 ~~"Number--of--suits"--"Plaintiffs"--"Defendants"--"Date--of~~
23 ~~judgment"--"Number--of--judgment"--"Page--of--entry--of--judgment~~
24 ~~in--judgment--book"--"Page--of--minute--book--of--district--court";~~
25 ~~also, an index, labeled "General--index--defendants"--each~~

1 ~~page--of--which--must--be--divided--into--seven--columns--under--their~~
2 ~~respective--heads,--alphabetically--arranged--as--follows:~~
3 ~~"Number--of--suits"--"Defendants"--"Plaintiffs"--"Date--of~~
4 ~~judgment"--"Number--of--judgment"--"Page--of--entry--of--judgment~~
5 ~~in--judgment--book"--"Page--in--minute--book--of--district--court";~~

6 ~~5. (6)~~ Keep keep a minute book, which must contain the
7 daily proceedings of court, which may be signed by the
8 clerk, ~~and which minute book~~ must be indexed in the names of
9 both defendant and plaintiff;

10 ~~6. (7)~~ Keep keep a book called "Record record of
11 probate proceedings", which must contain all the orders and
12 proceedings of the district court sitting in probate
13 matters, ~~as prescribed elsewhere in this code, and which~~
14 ~~index~~ must be indexed in the name names of the deceased
15 person, ~~and the executor or administratory or the names of~~
16 the guardian ~~or and the~~ ward;

17 ~~7. (8)~~ Keep keep a book called the "Probate probate
18 record book", in which must be recorded all wills, bonds,
19 letters of administration, letters testamentary, and other
20 papers as prescribed elsewhere ~~in this code, by law and~~
21 which record must be indexed in ~~like the same~~ manner as the
22 "Record record of probate proceedings";

23 ~~8. (9)~~ Keep keep two books;

24 ~~(a) the first book must be labeled "declaration of~~
25 ~~intention to become citizens of the United States" and must~~

1 ~~have entered in it in one of which must be entered~~ in
 2 alphabetical order the names of all persons who from the
 3 organization of the court have declared ~~or who may~~
 4 hereafter declare their intention to become citizens of the
 5 United States ~~and with the date of such declaration which~~
 6 ~~book must be labeled "Declaration of intention to become~~
 7 ~~citizens of the United States" and;~~

8 ~~(b) the second book must be labeled "naturalization --~~
 9 ~~final papers" and must have entered in it in the other of~~
 10 ~~which must be entered~~ in alphabetical order the names of all
 11 persons who have been ~~or may be hereafter~~ admitted as
 12 citizens of the United States by the court of which he is
 13 clerk ~~which book must be labeled "Naturalization Final~~
 14 ~~papers" and enter~~ in a separate column opposite each
 15 name, the country of which ~~such the~~ person was before
 16 ~~formerly~~ a citizen or subject, the date of his admission,
 17 and the page of the minute book or book of record containing
 18 the order admitting him as a citizen;

19 9. ~~(10)~~ Keep ~~keep~~ a booky called "Register register of
 20 criminal actions" ~~which must have a proper index and~~ in
 21 which must be entered the title and number of the action,
 22 with a memorandum of every paper filed ~~and~~ order or
 23 proceeding had therein, with the date thereof, and a
 24 ~~memorandum of~~ the name of every witness, ~~the~~ number of days
 25 in attendance ~~he attended~~, and his ~~total~~ witness fees; and

1 a proper index to the same;

2 10. ~~(11)~~ Keep ~~keep~~ a booky called a "register register
 3 of probate and guardianship proceedings" ~~in which must be~~
 4 entered the name of the estate ~~and~~ the register number
 5 with a memorandum of every paper filed ~~and~~ order or
 6 proceeding had therein, with the date thereof, and a
 7 ~~memorandum of~~ the fees charged;

8 11. ~~Keep an index book of persons sent to the insane~~
 9 ~~asylum as provided in section 38-200;~~

10 12. ~~(12)~~ Keep ~~keep~~ a fee booky in which must be shown,
 11 in an itemized form, all fees that he has received for any
 12 services rendered ~~in his capacity~~ as such clerk;

13 13. ~~(13)~~ Keep ~~keep~~ a booky called a "Book book of
 14 jurors' certificates" ~~in which must be contained~~ contain
 15 the blank certificates and stubs to be filled, as provided
 16 in this code 25-405;

17 14. ~~(14)~~ Keep ~~keep~~ a "witness booky" ~~in which must be~~
 18 contained contained blank certificates and stubs to be
 19 filled, as provided in 25-406 this code;

20 15. ~~(15)~~ Keep ~~keep~~ a record of the attendance of all
 21 jurors, and of witnesses in criminal actions, and compute
 22 the mileage of each."

23 Section 11. Section 16-3603, R.C.M. 1947, is amended
 24 to read as follows:

25 "16-3603. Governed by the law prescribing sheriffs'

duties. All the provisions of sections 16-2701 to through 16-2722 ~~inclusive of this code~~, except subsections (4), (5), and (6) of the fourth and sixth subdivisions of section 16-2702, apply to constables and govern their powers, duties, and liabilities."

Section 12. Section 16-3604, R.C.M. 1947, is amended to read as follows:

"16-3604. Duties of justices of the peace. Justices of the peace must perform such duties as are prescribed in sections 93-6601 to through 93-7714 of the code of civil procedure ~~(title 93)~~, and such any other duties as are prescribed by law."

Section 13. Section 16-3605, R.C.M. 1947, is amended to read as follows:

"16-3605. Justices not to practice law. (1) Except as provided in subsection (2), a No justice of the peace ~~shall~~ may not:

(a) practice law;

(b) draw contracts, conveyances, or other legal instruments or documents; nor

(c) ~~shall they~~ take any claim or bill for collection; nor ~~or~~ act as a collection agent in any sense whatever; nor ~~or~~

(d) ~~shall they~~ perform any legal duties other than those prescribed by law as their his official duties in the

conduct of cases and proceedings in ~~their courts~~ his court. ~~Any justice of the peace violating any of the provisions in this section shall be deemed guilty of a malfeasance in office and shall forthwith be removed from his office of justice of the peace and shall thereafter be disqualified from holding such office.~~

~~(2) Provided, however, that a~~ A justice of the peace who is an attorney and who is admitted to practice law before the supreme court of the state of Montana may engage in the general practice of law and practice law in all courts in the state of Montana, except that such a justice ~~of the peace~~, his law partner, ~~or~~ associate, ~~or a~~ member, associate, or employee of a firm of which he is a member ~~shall~~ may not represent a party involved in a case which is filed or tried in his court or in any justice court located in the same township county as his court, or which is appealed from ~~said courts~~ such a court.

(3) A justice of the peace who violates any of the provisions of this section is guilty of malfeasance in office and shall be removed from his office of justice of the peace and thereafter be disqualified from holding such office."

Section 14. Section 16-3607, R.C.M. 1947, is amended to read as follows:

"16-3607. Justice or constable purchasing not to

purchase judgment. ~~(1) A Every justice of the peace--or constable of the same county, who purchases may not purchase or is be interested in the purchase of any judgment, or part thereof on the his docket of, or on any docket in the his possession, of, such justice is guilty of a misdemeanor. A constable may not purchase or be interested in the purchase of any judgment or part thereof on the docket of a justice of the peace of the county of which he is a constable or on a docket in the possession of such a justice.~~

~~(2) Violation of subsection (1) is a misdemeanor.~~

Section 15. Section 25-307, R.C.M. 1947, is amended to read as follows:

"25-307. Collection and disposition of fees -- itemized statement. ~~Justices Each justice~~ of the peace shall collect the fees prescribed by law for justice ~~justices~~ courts and shall pay ~~the same them~~ into the county treasury of the county wherein ~~they--hold he holds~~ office, on or before the ~~tenth 10th~~ day of each month, to be credited to the general fund of the county, and ~~he~~ shall also file an itemized statement showing all fees received during the preceding month in ~~the his justice court, said the~~ statement shall also state that all fees required by law to be paid ~~during the preceding month~~ in connection with matters pending before the court ~~during the preceding month~~ have been paid into the county treasury, and listed in ~~said~~

~~the~~ itemized statement, and that he has not received or been promised, nor has any one else received or been promised for him, any other moneys, emolument, or thing ~~whatsoever~~ by virtue of or in connection with his office, ~~and--said the~~ statement shall be subscribed and sworn to by the justice. ~~This section, however, shall not apply to--"miscellaneous fees"--excepted by section 25-304, supra."~~

Section 16. Section 25-401, R.C.M. 1947, is amended to read as follows:

"25-401. Jurors' fees in courts of record. ~~Grand A grand or and trial jurors juror~~ shall receive ~~twelve dollars~~ \$12 per day for attendance before any court of record and a mileage allowance, as provided in ~~section 59-301, each way~~ for traveling ~~each way between his from--and--to their~~ residence and ~~the~~ county seat. Any A juror who is excused from attendance upon his own motion on the first day of his appearance in obedience to notice, or who has been summoned as a special juror and not sworn in the trial of the case, in the discretion of the court, may receive per diem and mileage."

Section 17. Section 25-403, R.C.M. 1947, is amended to read as follows:

"25-403. ~~Compensation of jurors~~ Jurors' fees in courts not of record and at coroner's inquests. Jurors in courts not of record, in both civil and criminal actions, shall

1 receive a fee of seven-dollars-and-fifty-cents-(\$7.50) per
 2 days, ~~but in~~ in civil actions, the jury jurors' fees must be
 3 paid by the party demanding the jury and ~~must be~~ taxed as
 4 costs against the losing party. Jurors in coroner's inquest
 5 ~~inquests~~ shall receive ~~for their services the sum of seven~~
 6 ~~dollars-and-fifty-cents a fee of (\$7.50)~~ per day."

7 Section 18. Section 82-503, R.C.M. 1947, is amended to
 8 read as follows:

9 "82-503. Fees. (1) The clerk He must collect in
 10 advance the following fees:

11 (a) For for filing the transcript on appeal, in each
 12 any civil case appealed to the supreme court, ~~twenty-dollars~~
 13 ~~(\$20)~~ payable by the appellant, and ~~ten--dollars-(\$10)~~
 14 payable by the respondent, at the time of his appearance, as
 15 payment in full for all services rendered in ~~each the~~ case,
 16 up to the remittitur to the court below;

17 (b) for filing a petition for any writ, ~~twenty-dollars~~
 18 ~~(\$20)~~, as payment in full for all services rendered in ~~each~~
 19 ~~the~~ cause;

20 (c) for a certificate of admission as an attorney and
 21 counselor, ~~five-dollars-(\$5)~~;

22 (d) for making transcripts, or copies of papers or
 23 record records, ~~fifteen 15 cents (\$15)~~ per folio;

24 (e) for comparing any document requiring a
 25 certificate, ~~five 5 cents (\$05)~~ per folio;

1 (f) for each certificate under seal, ~~one-dollar-(\$1)~~.

2 (2) Three-fourths ($3/4$) of all fees collected by him
 3 ~~the clerk~~ must be paid into the state treasury, ~~which and~~
 4 shall be credited to ~~the--credit--of~~ the general fund,
 5 ~~one-fourth--(1/4)~~ One-fourth of all fees collected by him
 6 shall be paid to the ~~secretary--of--the~~ public employees'
 7 retirement ~~system--board~~ division of the department of
 8 administration to be credited to the Montana judges'
 9 retirement fund system account."

10 Section 19. Section 82-505, R.C.M. 1947, is amended to
 11 read as follows:

12 "82-505. Settlements, ~~when--and--how--made~~ and accounts
 13 to state auditor. He The clerk is responsible and must
 14 account for, and, in his settlement with the state auditor,
 15 must be charged with, the full amount of all fees collected
 16 or chargeable, and accruing in causes brought into the court
 17 for services rendered therein up to the time of each
 18 settlement, ~~which The~~ settlement must take place quarterly,
 19 and ~~must~~ immediately thereafter the clerk must pay the
 20 amount found due into the treasury or to the public
 21 employees' retirement division, as provided in 82-503(2). He
 22 must also, at the end of each quarter, render to the state
 23 auditor, in such form as that officer prescribes, an account
 24 in detail, and under oath, of all fees chargeable and
 25 accruing in causes brought into court and not included in

1 his previous accounts rendered. His salary ~~must~~ may not be
2 allowed or paid until all fees so accruing, and for which he
3 is chargeable, have been accounted for and paid over."

4 Section 20. Section 82-2007, R.C.M. 1947, is amended
5 to read as follows:

6 "82-2007. Distribution of reports. (1) On the
7 publication of each volume of said ~~the~~ reports, the
8 secretary of state shall purchase ~~300 copies from the~~ of
9 said publisher, for the use of the state, three--hundred
10 copies--thereof--and He shall distribute the--same ~~them~~ in the
11 manner following manner:

12 (a) ~~To~~ to the law libraries of each state and
13 territory of the United States, one copy;

14 (b) to the ~~library~~ library of Congress ~~congress~~, five
15 copies;

16 (c) to each of the judges of the United States
17 district courts of the states of Idaho, Nevada, California,
18 Washington, Montana, Wyoming, and Oregon, one copy;

19 (d) to each ~~state--officer~~, justice of the supreme
20 court, district judge, county attorney, and clerk of the a
21 district court in this state, one copy;

22 (e) ~~to each state office, as many copies as the~~
23 secretary of state determines are needed;

24 (f) to the law library of the state of Montana, three
25 copies.

1 (2) He shall also distribute ~~said the~~ reports to
2 literary and scientific institutions, publishers, and
3 authors, and legislative reference libraries of other states
4 with whom ~~which~~ the state law librarian has established or
5 ~~may-hereafter-establish~~ a system of exchange.

6 (3) He shall also distribute to the ~~university~~
7 university of Montana ~~not-to-exceed up to 50~~ fifty copies to
8 be used by the law librarian of the ~~state~~ university for the
9 purpose of exchanges with universities and institutions of
10 higher education in other states.

11 (4) All reports distributed to state, district, and
12 other officers in the state ~~shall-be are~~ for the use of
13 their officer, and shall be, by the person receiving ~~the--same~~
14 ~~them~~, turned over to his successor in office, ~~and--the~~ The
15 secretary of state shall take proper receipts for ~~such the~~
16 reports."

17 Section 21. Section 93-219, R.C.M. 1947, is amended to
18 read as follows:

19 "93-219. Judge--becoming--candidate--for--elective
20 office--resigning-----of-----supreme-----court
21 office--exceptions--vacancy justice or judge not to run for
22 office -- resignation required. (1)(a) ~~Whenever-any~~ If a
23 person ~~holding-or~~ occupying the office of chief justice or
24 associate justice ~~on of~~ the supreme court ~~or judge of a~~
25 district court of the state of Montana ~~shall-become~~ becomes

a candidate for election to any elective office under the laws ~~of or in~~ the state of Montana, such--person he shall ~~forthwith immediately~~, and in any event at or before the time ~~required for such person to when he must~~ file as a candidate for such office at ~~in~~ any primary or special or general election, resign ~~said from his~~ office of chief justice, or associate justice ~~of--said--supreme--court, or district judge.~~

(b) The resignation becomes effective immediately upon its delivery to the proper officer or superior.

(c) The resignation requirement applies except where such ~~when~~ the person is a bona fide candidate for re-election ~~reelection~~ to the identical office then ~~held--or~~ occupied by him or for another nonpartisan judicial office the term of which ~~shall does not~~ commence ~~not~~ earlier than the end of the term of the office then ~~held--or~~ occupied by such--justice him, and--said--resignation--~~shall--become effective--forthwith--on--delivery--of--the--same--to--the--proper officer--or--superior~~ and

(2) in ~~in~~ the event of a failure ~~so~~ to resign, ~~said~~ ~~the~~ office of chief justice, or associate justice, of ~~said~~ supreme court or of district judge of ~~any of--said--district courts--the--same--shall--ipso--facto--become--wholly automatically becomes~~ vacant and--unoccupied and the ~~said~~ former holder--or occupant ~~shall have~~ has no further right,

power, or authority therein for any purpose, and no right to any emoluments thereof, notwithstanding the fact that a successor is not appointed or elected, ~~and--said The~~ vacancy ~~shall--become becomes~~ operative to deprive ~~any the~~ person of the emoluments of ~~said the~~ office then--held in order to carry out the policy of this act."

Section 22. Section 93-302, R.C.M. 1947, is amended to read as follows:

"93-302. Number of judges. In each judicial district there must be the following number of judges of the district court, who must be elected by the qualified voters of the district, and whose term of office ~~must be is~~ six-(6) years, to-wit:

(1) in in the first 1st, second 2nd, eleventh 11th, and sixteenth 16th districts, two judges each;

(2) in the thirteenth, eighth and fourth 4th, 8th, and 13th districts, three judges, each; and

(3) in all other districts, one judge each."

Section 23. Section 93-305, R.C.M. 1947, is amended to read as follows:

"93-305. Expenses when sitting out of district,--or attending--judges'--conference. Every A judge who ~~shall sit sits~~ in the place of another judge in the trial or hearing of an action or proceeding in a district other than his own, or in the supreme court, or who ~~shall attend attends~~ a

conference of judges in Helena called by the chief justice of the supreme court shall be paid his actual and necessary travel expenses while engaged in that service as follows:

(1) His ~~his~~ travel expenses in going from the county seat which he makes his place of residence to the place of trial or conference and return; and

(2) his board and lodging while engaged in the trial, hearing, or conference. ~~All travel expense reimbursements shall be determined as provided for in sections 59-538, 59-539, and 59-881.~~

Section 24. Section 93-313, R.C.M. 1947, is amended to read as follows:

"93-313. Expenses of judges ~~holding court in other counties when not in county of residence~~. Each A district judge of a judicial district ~~in this state~~ composed of more than one county ~~when who~~, for the purpose of holding court and disposing of judicial business, he goes to a county of his judicial district, other than the county in which he resides, and therein holds court or transacts judicial business, shall be paid all of his actual and necessary expenses of transportation and living, incurred on account thereof ~~and all expenditures made thereby as provided for in sections 59-538, 59-539, and 59-881~~, from the time he leaves his place of residence until he returns thereto."

Section 25. Section 93-325, R.C.M. 1947, is amended to

read as follows:

"93-325. Appointment of ~~judge~~ -- salary -- qualifications. (1) The judges of the judicial district in which a small claims court has been created shall appoint a judge of the small claims court who shall:

(a) take the oath required of judges;

(b) serve at the pleasure of the district court judges;

(c) be paid a salary set by the district court judge judges; and

(d) be an attorney licensed to practice law in the ~~state of~~ Montana.

(2) The judge ~~judges~~ of the district court may appoint more than one ~~it~~ small claims court judge for any small claims court, ~~and the~~ the salary shall be prorated among the judges appointed."

Section 26. Section 93-408, R.C.M. 1947, is amended to read as follows:

"93-408. ~~Jurisdiction~~ Civil jurisdiction of justices' courts. The ~~justice~~ justices' courts have jurisdiction:

~~+~~(1) in in actions arising on contract for the recovery of money only, if the sum claimed does not exceed ~~fifteen hundred dollars (\$1,500)~~, exclusive of court costs;

~~2~~(2) in in actions for damages not exceeding ~~fifteen hundred dollars (\$1,500)~~, exclusive of courts ~~court~~ costs.

1 for taking, detaining, or injuring personal property or for
2 injury to real property where when no issue is raised by the
3 verified answer of the defendant involving the title to or
4 possession of the real property same;

5 (3) in actions for damages not exceeding fifteen
6 hundred-dollars-(\$1,500), exclusive of court costs, for
7 injury to the person, provided, except that, in actions for
8 false imprisonment, libel, slander, criminal conversation,
9 seduction, malicious prosecution, bastardy determination of
10 paternity, and abduction, and alienation-of-affections, the
11 justice of the peace shall does not have jurisdiction;

12 3*(4) in in actions to recover the possession of
13 personal property, if the value of such the property does
14 not exceed fifteen-hundred-dollars-(\$1,500);

15 4*(5) in in actions for a fine, penalty, or
16 forfeiture, not exceeding fifteen-hundred-dollars-(\$1,500),
17 given imposed by a statute, or the an ordinance of an
18 incorporated city or town, where when no issue is raised by
19 the answer involving the legality of any tax, impost,
20 assessment, toll, or municipal fine;

21 5*(6) in in actions upon bonds or undertakings
22 conditioned for the payment of money, if when the sum
23 claimed does not exceed fifteen-hundred-dollars-(\$1,500),
24 though the penalty may exceed that sum;

25 6*(7) to to take and enter judgment for the recovery

1 of money on the confession of a defendant, when the amount
2 confessed does not exceed fifteen-hundred-dollars-(\$1,500),
3 exclusive of court costs."

4 Section 27. Section 93-505, R.C.M. 1947, is amended to
5 read as follows:

6 "93-505. Sittings of court -- when private. (1) In an
7 action for divorce, criminal conversation, or seduction, or
8 breach--of--promise--of--marriage, the court may direct the
9 trial of any issue of fact joined therein to be private, and
10 exclude all persons except the officers of the court, the
11 parties, their witnesses, and counsel;

12 (2) provided-that During the examination of a witness
13 in any cause, the court may, in the-exercise-of-a-sound its
14 discretion, during-the-examination-of-a-witness, exclude any
15 some or all of of the other witnesses in the cause."

16 Section 28. Section 93-507, R.C.M. 1947, is amended to
17 read as follows:

18 "93-507. Nonjudicial days. (1) No court must may be
19 open, nor must may any judicial business be transacted on
20 legal holidays as provided for in section 19-107 and or on a
21 day appointed by the president of the United States, or by
22 the governor of this state, for a public fast, thanksgiving,
23 or holiday, except for the following purposes:

24 trial To to give, upon their its request, instructions
25 to a jury when deliberating on their its verdict;

1 2*(b) To to receive a verdict or discharge a jury;
2 3*(c) For for the exercise of the powers of a
3 magistrate in a criminal action or in a proceeding of a
4 criminal nature;

5 (2) ~~but-injunctions~~ injunctions, writs of prohibition,
6 and habeas corpus may be issued and served on any day."

7 Section 29. Section 93-702, R.C.M. 1947, is amended to
8 read as follows:

9 "93-702. Qualifications and residence. (1) No person
10 is eligible for the office of justice of the supreme court
11 or judge of the a district court unless he is a citizen of
12 the United States, who has resided in the state two--(2)
13 years immediately before taking office, and has been
14 admitted to practice law in Montana for at least five--(5)
15 years prior to the date of appointment or election.

16 (2) A judge of the a district court need not be a
17 resident of the district for which he is elected or
18 appointed at the time of his election or appointment, but
19 after his election or appointment, he ~~shall~~ must reside in a
20 county seat in the district for which he is elected or
21 appointed during his term of office. Justices of the supreme
22 court ~~shall~~ must reside within the state during their terms
23 of office."

24 Section 30. Section 93-705, R.C.M. 1947, is amended to
25 read as follows:

1 "93-705. ~~Judicial--nomination--commission--creation--~~
2 Creation, composition, and function of commission. ~~There--is~~
3 ~~created--a~~ A judicial nomination commission for the state of
4 Montana is created, whose ~~its~~ function ~~it--shall--be~~ is to
5 provide the governor with a list of candidates for ~~nominee~~
6 nomination to fill any vacancy on the supreme court or any
7 district court of the state of Montana. The commission shall
8 be composed of seven ~~(7)~~ members as follows:

9 (1) four ~~(4)~~ lay members, who are neither judges or
10 nor attorneys, active or retired, and who ~~shall~~ reside in
11 different geographical areas of the state and each of these
12 four--~~(4)~~--members--~~shall--be~~ whom is representative of a
13 different industry, business, or profession, whether or--not
14 actively so engaged or retired; ~~such-members~~ who shall be
15 appointed by the governor;

16 (2) two ~~(2)~~ attorneys, actively engaged in the
17 practice of law, one ~~(1)~~ from each congressional district,
18 who shall be appointed by the supreme court;

19 (3) one ~~(1)~~ district judge elected by the district
20 judges under an elective procedure initiated and conducted
21 by the supreme court and certified to such election by the
22 chief justice of the supreme court, and ~~the~~ which-for-the
23 purpose-of-the--language--of--this--act election shall be
24 considered as an appointment for the purposes of this act."

25 Section 31. Section 93-725, R.C.M. 1947, is amended to

1 read as follows:

2 "93-725. ~~Judicial---officer---not---to---participate---in~~
3 ~~investigation---of---self---or---relative~~ Nonparticipation of
4 interested judicial officer. A judicial officer who is a
5 member of the commission or of the supreme court ~~shall~~ may
6 not participate in any proceeding involving his own censure,
7 suspension, removal, or retirement or that of his spouse; a
8 relative within the sixth degree of consanguinity; or that
9 of the spouse of such a relative."

10 Section 32. Section 93-726, R.C.M. 1947, is amended to
11 read as follows:

12 "93-726. ~~Disqualification~~ Interim disqualification of
13 ~~judge-pending--criminal--prosecution--or--proceeding--before~~
14 ~~commission~~ judicial officer. A ~~judge~~ judicial officer is
15 disqualified from acting as ~~a judge~~ such, without loss of
16 salary, while there is pending:

17 (1) an indictment or an information charging him with
18 a crime punishable as a felony under Montana or federal
19 law; or

20 (2) a formal proceeding before the commission for his
21 removal or retirement."

22 Section 33. Section 93-903, R.C.M. 1947, is amended to
23 read as follows:

24 "93-903. No judicial officer to have partner
25 practicing law. No justice, judge, or other elective

1 judicial official--~~must of a court of record~~ may have a
2 partner acting as attorney or counsel in any court of this
3 state."

4 Section 34. Section 93-1203, R.C.M. 1947, is amended
5 to read as follows:

6 "93-1203. Grand jury defined. A grand jury is a body
7 of persons, ~~seven~~ 11 in number, returned ~~in-pursuance-of~~ as
8 provided by law, from the citizens of a county, before a
9 court of competent jurisdiction, and sworn to inquire of
10 into public offenses committed or triable within the
11 county."

12 Section 35. Section 93-1304, R.C.M. 1947, is amended
13 to read as follows:

14 "93-1304. Who exempt from jury duty. ~~11~~ A person is
15 exempt from liability to act as a juror if he is:

16 ~~1. (a)~~ 1. (a) A judicial, civil, or military officer of the
17 United States or of this state;

18 ~~2. (b)~~ 2. (b) A person holding a public office in ~~the~~ this
19 state, or in a county, township, city, or town of this state;

20 ~~3. (c)~~ 3. (c) An ~~an~~ attorney ~~at-law~~ in practice;

21 ~~4. (d)~~ 4. (d) A ~~minister-of-the-gospety-or-a-priest-of-any~~
22 ~~denomination--or--editor~~ a member of the clergy of any
23 religion following his profession;

24 ~~(e)~~ (e) an editor following his profession;

25 ~~5. (f)~~ 5. (f) A teacher in a university, college, academy,

1 or school;

2 (c) an employee of the Montana state school for the
3 deaf and blind;

4 or (h) a practicing physician, dentist, or druggist
5 actually engaged in the business of dispensing medicines;
6 or

7 (i) a regularly licensed embalmer or undertaker;

8 7*(j) An an officer, keeper, or attendant of a
9 hospital, asylum mental health facility, or other charitable
10 institution;

11 8*(k) Engaged-in-the-performance-of-duty-as an officer
12 or attendant of the state prison, penitentiary, or of a
13 county jail on active duty;

14 9*(l) An an express agent, mail carrier, or
15 superintendent, employee, or operator of a telegraph line
16 doing general telegraph business in the this state;

17 10*(m) An an active member of the national guard of
18 Montana; or

19 (n) an active member of a fire department of any city
20 or town of this state; the--number--of--firemen--hereby
21 exempted--must--not--exceed--twenty-eight--(28)--including
22 officers--for--each--company--organized--and--such--members--from
23 each--company--must--be--selected--from--the--roll--of--such--company
24 according--to--the--seniority--of--memberships--and--a--list
25 containing--the--names--of--such--persons--must--be--made--out--by--the

1 secretary--of--each--company--and--filed--with--the--clerk--of--the
2 board--of--county--commissioners--on--the--first--Mondays--of
3 December, March, June and September; and any failure to file
4 the list hereby required is--considered--a--waiver--of--such
5 exemptions.

6 11*(o) A a superintendent on a railroad;

7 12*(p) A a nurse engaged in a case; or

8 (q) a person caring directly for one or more children.

9 (2) The number of fireman exempted under subsection
10 (1)(n) may not exceed 28, including officers, for each
11 company organized. The exempt members shall be selected
12 from the roll of each company according to the seniority of
13 membership. The secretary of each company shall make a list
14 of the exempt members and file it with the clerk of the
15 board of county commissioners on the first Mondays of March,
16 June, September, and December. Failure to file the list is
17 considered a waiver of the exemption.

18 (3) When a person claims exemption under subsection
19 (1)(q), the certificate of the superintendent of the school,
20 under the official seal of the school, is sufficient
21 evidence of qualified employment.

22 (4) The court must discharge a person from serving as
23 a trial juror in either of the following cases:

24 (a) Where when it satisfactorily appears that he--or
25 she the person is not competent; and; or

1 ~~(b) Where when~~ it satisfactorily appears that he or
2 ~~she the person~~ is exempt and claims the benefit of
3 exemption."

4 Section 36. Section 93-1503, R.C.M. 1947, is amended
5 to read as follows:

6 "93-1503. Drawing -- how conducted. ~~1. (1)~~ The clerk
7 ~~must shall~~ place ~~said the~~ box on a rod so that ~~the same it~~
8 may readily revolve, ~~and said the~~ box must be revolved a
9 sufficient number of times ~~so as~~ to ensure that the numbered
10 slips in ~~said box~~ ~~shall it~~ become thoroughly mixed, ~~and~~
11 thereafter ~~thereafter~~ the judge ~~must shall~~ draw from ~~said~~
12 ~~the box~~, one ~~(1)~~ at a time, as many of the numbered slips as
13 are ordered by the court.

14 ~~2. (2)~~ A minute record of the drawing shall be entered
15 in the minutes of the court, ~~which it~~ must show the names
16 of the jurors corresponding to the numbers ~~so~~ drawn from
17 ~~said the~~ jury box.

18 ~~3. (3)~~ If ~~the court is satisfied that the name--of~~ any
19 person ~~whose name is~~ so drawn is deceased or ~~insane~~
20 ~~mentally incompetent~~ or ~~who may have has~~ permanently removed
21 ~~moved~~ from the county, ~~and the fact shall be made to--appear~~
22 ~~to--the--satisfaction--of--the--court~~, the name of such ~~the~~
23 person shall be omitted from the list, and another juror
24 ~~name shall be~~ drawn in his ~~its~~ place, ~~and the fact the~~
25 ~~reason for the omission~~ shall be entered upon the minutes of

1 the court. The same proceeding ~~procedure~~ shall be had
2 ~~followed~~ as often as may be necessary, until the number of
3 names of jurors required ~~shall~~ have been drawn.

4 ~~(4)~~ After the drawing ~~shall have~~ has been completed,
5 the clerk shall make a copy of the list of names ~~of the~~
6 ~~persons--so~~ drawn, and certify the same. In his certificate
7 he shall state the date of the order and of the drawing, and
8 the number of the jurors ~~names~~ drawn, and the time when and
9 the place where such ~~the~~ jurors ~~shall--be~~ are required to
10 appear.

11 ~~(5)~~ Such ~~the~~ certificate and list shall be delivered
12 to the sheriff for service.

13 ~~4. (6)~~ No person ~~shall may~~ be asked to serve on for
14 more than one term during any year unless all the numbers in
15 ~~the~~ jury box ~~now--it~~ have been drawn and there are no other
16 qualified jurors available."

17 Section 37. Section 93-1603, R.C.M. 1947, is amended
18 to read as follows:

19 "93-1603. Officer's return. The officer summoning such
20 ~~the~~ jurors shall, at the time fixed in the order for their
21 appearance, return ~~it the order~~ to the court with a list of
22 the persons summoned endorsed thereon."

23 Section 38. Section 93-1802, R.C.M. 1947, is amended
24 to read as follows:

25 "93-1802. How constituted. ~~(1)~~ When 11 of the persons

summoned as grand jurors who are competent and not excused, ~~eleven (11)~~ are present, they constitute the grand jury.

(2) If ~~when~~ more than ~~eleven (11)~~ of such persons are present, the clerk ~~must~~ shall write their names on separate ballots, and place the ballots in black capsules, ~~which the~~ the capsules shall be deposited in a box large enough to hold all of the capsules without crowding, ~~and which the~~ the box shall be so arranged that the clerk drawing the capsules from the box ~~shall be is~~ unable to observe or see the capsule he is about to draw, ~~and the clerk shall draw out eleven (11) of them capsules, and the~~ the persons whose names are on the ballots so drawn shall constitute the grand jury.

(3) If ~~when~~ less than ~~eleven (11)~~ of such persons are present, the court may shall order a sufficient number to be forthwith immediately drawn from either the jury box and summoned to attend the court. ~~And whenever of the persons to complete a grand jury more attend than are required, the requisite number must be obtained by writing the names of those so summoned and not excused on ballots, which the ballots shall be placed in black capsules, and thereafter deposited in a box, and then drawn as above provided.~~

Section 39. Section 93-1803, R.C.M. 1947, is amended to read as follows:

"93-1803. Manner of impaneling grand jury prescribed.

~~Thereafter such proceedings must be had in impaneling the grand jury. After the jurors have been selected, the grand jury shall be impaneled as are prescribed in sections 94-6301 to 94-6319 95-1401 through 95-1403.~~

Section 40. Section 93-1805, R.C.M. 1947, is amended to read as follows:

"93-1805. Clerk to call list of jurors summoned, ~~prepare capsules.~~ At the opening of court on the day trial jurors have been summoned to appear, the clerk shall call the names of those summoned, and the court may then hear the excuses of jurors summoned.

(2) The clerk shall then write the names of the jurors present and not excused ~~upon~~ on separate ~~strips or~~ ballots of paper, and fold such strips ~~the ballots~~ so that the names are concealed, and place ~~said strips them~~ in black capsules, ~~and there--in in~~ in the presence of the court, the clerk shall deposit the capsules containing ~~said strips or the~~ ballots in a box large enough to hold all of said the capsules without crowding, ~~and which said the~~ the box shall be so arranged that the clerk judge drawing said the capsules from said the box ~~shall be is~~ unable to observe or see the capsules he is about to draw, ~~and which said the~~ the box must be kept sealed or locked until ordered by the court to be opened."

Section 41. Section 93-1806, R.C.M. 1947, is amended to read as follows:

1 "93-1806. Manner of impaneling ~~---how-prescribed. (1)~~
 2 Whenever ~~thereafter~~ a civil action is called by the court
 3 for trial, and a jury is required, ~~such-proceedings-shall-be~~
 4 ~~had-in-impaneling~~ the trial jury shall be impaneled as are
 5 prescribed in sections 93-5001 to through 93-5015.

6 (2) ~~If~~ ~~When~~ the action be is a criminal one, the jury
 7 shall be impaneled as prescribed in Title 94 25."

8 Section 42. Section 93-1809, R.C.M. 1947, is amended
 9 to read as follows:

10 "93-1809. Manner of impaneling. ~~Thereafter~~ The jury
 11 shall be impaneled as provided in:

12 (a) Title 95, if the action is a criminal one; ~~the~~
 13 ~~jury-must-be-impaneled-as-provided-in>Title-94;~~

14 (b) Sections 93-5001 through 93-5015, if the action is
 15 a civil one; ~~as-provided-in-sections-93-5001-to-93-5015."~~

16 Section 43. Section 93-1903, R.C.M. 1947, is amended
 17 to read as follows:

18 "93-1903. Matters written out and filed. All
 19 objections made, during the trial or hearing and the
 20 rulings, decisions, and opinions of the court, ~~and the~~
 21 ~~exceptions--taken--during--the--trial--or--hearing,~~ must be
 22 written out at length or printed in type by the reporter,
 23 and filed with the clerk forthwith immediately after the
 24 close of the trial or hearing, ~~and--thereafter--such~~
 25 ~~exceptions--may--be--settled--in--a--bill--of--exceptions--as~~

1 ~~provided-in-section-93-5505."~~

2 Section 44. Section 93-1904, R.C.M. 1947, is amended
 3 to read as follows:

4 "93-1904. ~~To--furnish-copies-to-parties-etc~~ Copies of
 5 proceedings. (1) Each reporter ~~specified--in--this--chapter~~
 6 must ~~likewise~~ furnish, upon request, ~~furnish~~ with all
 7 reasonable diligence, to the defendant in a criminal ~~cause~~
 8 ~~case~~ or a party or his attorney in a civil ~~cause~~ case in
 9 which he has attended the trial or hearing, a copy, written
 10 out at length or in narrative form, from his stenographic
 11 notes, of the testimony and proceedings upon the trial or
 12 hearing, or a part thereof, ~~upon-the-trial-or-hearing,~~ upon
 13 payment by the person requiring the same, ~~of the--sum--of~~
 14 ~~seven-and-one-half-cents--(\$0.075) 1 1/2 cents~~ per folio.

15 (2) If the county attorney, or attorney general, or
 16 judge requires ~~such a~~ copy in a criminal ~~cause~~ case, the
 17 reporter is entitled to his fees therefor, but he must
 18 furnish it, ~~and-upon~~ Upon furnishing it, he shall receive a
 19 certificate of the sum to which he is so entitled, which is
 20 a county charge, and must be paid by the county treasurer
 21 upon the certificate like other county charges.

22 (3) If the judge requires ~~such a~~ copy in a civil case
 23 to assist him in rendering a decision, the reporter must
 24 furnish the same without charge therefor. In civil cases,
 25 all transcripts required by the county shall be furnished

1 ~~without cost.~~

2 (4) If it appears to the judge that a defendant in a
3 criminal case is unable to pay for such a copy, the same ~~it~~
4 shall be furnished ~~to~~ him and paid for by the county."

5 Section 45. Section 93-1906, R.C.M. 1947, is amended
6 to read as follows:

7 "93-1906. Salary and expenses of---reporter --
8 apportionment. (1) Every ~~Each~~ reporter appointed---under---the
9 provisions---of---this---chapter is entitled to receive an annual
10 salary of not less than ~~twelve-thousand-five-hundred-dollars~~
11 ~~(\$12,500)~~ and not ~~or~~ more than ~~sixteen-thousand-dollars~~
12 ~~(\$16,000)~~ and no other compensation except as provided in
13 93-1904. ~~said~~ The salary to ~~shall~~ be set by the judge in the
14 district in which the reporter works, ~~and---no---other~~
15 ~~compensation---except---as---provided---in---section---93-1904,~~
16 ~~provided,---however,---that---all---transcripts---and---bills---of~~
17 ~~exceptions---required---by---the---county---shall---be---furnished---without~~
18 ~~cost.~~ It is payable in monthly installments out of the
19 general funds of the counties comprising the district for
20 which he ~~the~~ reporter is appointed, according--and in
21 proportion to the number of civil and criminal actions
22 entered--and commenced in the district courts ~~court~~ of such
23 counties in and for each county respectively in the
24 preceding year, ~~and---it---shall---be---the---duty---of---the---The~~ judge
25 of such ~~the~~ district ~~shall~~, on the first day of January 1 of

1 each year, or as soon thereafter as possible may--be, to
2 apportion the amount of ~~such the~~ salary to be paid by each
3 county in his district on the basis prescribed in this
4 subsection aforesaid.

5 (2) In judicial districts comprising more than one
6 county, ~~the~~ the reporter is allowed, in addition to the
7 salary and fees provided for in subsection (1) above
8 provided, in judicial districts comprising more than one (1)
9 county, his actual and necessary expenses of transportation
10 and living when he goes on official business to a county of
11 his judicial district other than the county in which he
12 resides, from the time he leaves his place of residence
13 until he returns thereto, ~~said~~ The expenses to ~~shall~~ be
14 apportioned and payable in the same way as the salary."

15 Section 46. Section 93-5008, R.C.M. 1947, is amended
16 to read as follows:

17 "93-5008. Ballots---when---drawn---from---box---No---3 Procedure
18 when insufficient number attend. (1) If a sufficient number
19 of jurors duly drawn and notified do not attend to form a
20 jury--or--a--jury--is--impaneled--to--another--cause--and--not
21 discharged, the district judge shall, pursuant to an order
22 to be entered in the minutes, in the presence of the clerk
23 of the court draw a sufficient number of ballots from ~~the~~
24 box ~~No---3,~~ specified in section--93-1586, to complete the
25 jury. The sheriff ~~must~~ shall notify the persons thus drawn

to attend forthwith immediately or at a time fixed by court. If for any reason a sufficient number of jurors to try the issue is not obtained from the persons notified under an order made as prescribed in this section, the court may make another order or successive orders until a sufficient number is obtained.

(2) Each person so notified must attend at a ~~the~~ time required by the notice, and, unless excused by the court or set aside, must serve as a juror upon the trial. For a neglect or refusal so to do so, he may be fined in the same manner as a any other trial juror regularly drawn and notified, ~~as--prescribed-in-this-code~~ and he is subject to the same exceptions and challenges as any other trial juror."

Section 47. Section 93-7501, R.C.M. 1947, is amended to read as follows:

"93-7501. Contempts a justice may punish for. A justice may punish ~~as~~ for contempt persons guilty of the following acts and no other:

~~1~~(1) ~~Disorderly~~ disorderly, contemptuous, or insolent behavior toward the justice while holding the court, tending to interrupt the due course of a trial or other judicial proceeding;

~~2~~(2) ~~A~~ a breach of the peace, boisterous conduct, or violent disturbance in the presence of the justice or in

the immediate vicinity of the court held by him, tending to interrupt the due course of a trial or other judicial proceeding;

~~3~~(3) ~~Disobedience~~ disobedience or resistance to the execution of a lawful order or process made or issued by him the justice;

~~4~~(4) ~~Disobedience~~ disobedience to a subpoena duly served, or refusing refusal to be sworn or to answer as a witness;

~~5~~(5) ~~Rescuing~~ rescuing any person or property in the custody of an officer by virtue of an order or process of the court, ~~held-by-him~~

Section 48. Section 93-7602, R.C.M. 1947, is amended to read as follows:

"93-7602. Entries--~~therein--primary--evidence--of--the~~ facts How entries made--prima facie evidence. The ~~several particulars-of-the-last-section-specified~~ items listed in 93-7601 must be entered in the docket under the title of the action to which they relate, and, ~~unless otherwise provided in sections 93-6601 to 93-7604-provided~~ through 93-7714, at the time when they occur. Such entries in a justice's docket, or a transcript thereof, certified by the justice, or his successor in office, are ~~prima-facie~~ prima facie evidence of the facts so stated."

Section 49. Section 93-7605, R.C.M. 1947, is amended

1 to read as follows:

2 "93-7605. Proceedings when office becomes vacant and
3 ~~before a successor is appointed.~~ If the office of a justice
4 ~~become becomes~~ vacant by ~~because of~~ his death, or his
5 removal from the county, or ~~otherwise any other cause~~
6 ~~before his successor is elected and qualified appointed,~~ the
7 docket and papers ~~that were~~ in his possession of such
8 justice ~~must shall~~ be deposited in the office of some other
9 justice in the county, ~~to be by him delivered who shall~~
10 ~~deliver them~~ to the successor of such ~~the former~~ justice. If
11 there is no other justice in the county, then the docket and
12 papers ~~of such justice must shall~~ be deposited in the office
13 of the county clerk, ~~to be by him delivered who shall~~
14 ~~deliver them~~ to the successor in office of the ~~former~~
15 justice."

16 Section 50. Section 93-7607, R.C.M. 1947, is amended
17 to read as follows:

18 "93-7607. Justice ~~elected to fill vacancy who is the~~
19 ~~successor.~~ The justice elected ~~appointed~~ to fill a vacancy
20 is the successor of the justice whose office became vacant
21 before the expiration of a full term. When a full term
22 expires, the same ~~or another~~ person elected to take ~~the~~
23 ~~numbered office, as provided in 93-491, in the same county~~
24 from that time is the successor."

25 Section 51. Section 93-7704, R.C.M. 1947, is amended

1 to read as follows:

2 "93-7704. ~~Getting another justice when by whom~~
3 ~~Acting justices.~~ (1) Disqualification. (a) ~~when whenever~~ a
4 justice of the peace is disqualified from acting on in any
5 action because of the application of subsection (1), (2), or
6 (3) of section 93-901, he shall either transfer the action
7 to another justice court in the same county or call a
8 justice from a neighboring county to preside in his behalf,
9 ~~who while so acting is vested with the power of the justice~~
10 ~~for whom he so holds court~~

11 ~~(b) Illness or absence in case of sickness~~
12 ~~Whenever a justice is sick, disability disabled, or absence~~
13 ~~of a justice absent and for such a period of time that the~~
14 county commissioners of the county find that there is a
15 delay in the proper administration of justice or upon the
16 written request of the county attorney ~~may call~~
17 request, another justice, if there is one readily available,
18 or a police city judge or some other qualified person shall
19 be called in to hold court for the absent justice until the
20 his return, ~~of the absent justice and when so called and so~~
21 ~~acting that person is vested with the power of the justice~~
22 ~~for whom he so holds court~~

23 ~~Official vacations.~~ During the times when a justice of
24 the peace is on vacation or attending a training session,
25 another justice of the peace of the same county shall be

1 authorized to handle matters that otherwise would be handled
2 by the absent justice. When there is no other justice of
3 the peace in the county, the county commissioners shall
4 handle the situation in the same manner as if the justice
5 were sick or absent.

6 ~~{4}{12} Necessary--expenses~~ Whenever a justice of the
7 peace or other ~~another~~ person is called in to preside over
8 the court of a justice ~~who-is-disqualified-sick-or-absent~~
9 ~~under subsection (1), that the~~ visiting justice ~~of-the-peace~~
10 or other person shall be paid all necessary and actual
11 expenses including mileage, ~~and--if--that~~ If the acting
12 justice is not a justice of the peace receiving a salary,
13 ~~then--that--acting--justice~~ he shall also receive such
14 compensation as is proper for the time involved. Such
15 ~~expenses--shall--be~~ The cost of implementing this subsection
16 is a proper charge against the county where the court is
17 held.

18 ~~{5}{11} Court-docket-entries~~ When another justice, or
19 any other qualified person is called to preside in a justice
20 court, proper entries of all proceedings must be made in the
21 docket of the justice for whom the visiting justice or
22 person holds court. When the appointment is made by order
23 of the county commissioners, the order shall be placed in
24 the court docket.

25 ~~{6}{4} Jurisdiction-of-called-in-persons~~ When called

1 in to preside over a justice court ~~as-above-provided,~~ the
2 visiting justice of the peace or other qualified person
3 while acting as justice of the peace is vested with all the
4 power of the justice for whom he so holds court."

5 Section 52. Section 93-7707, R.C.M. 1947, is amended
6 to read as follows:

7 "93-7707. What provisions of code applicable to
8 justices' courts. ~~Justices~~ Because justices' courts, ~~--being~~
9 are courts of peculiar and limited jurisdiction, only those
10 provisions of this code which are, in their nature,
11 applicable to the organization, powers, and course of
12 proceedings in justices' courts, or which have been made
13 applicable by special provisions in sections 93-6601 to
14 ~~93-7804,~~ 93-7714 are applicable to justices' courts
15 and the proceedings therein."

16 Section 53. Section 93-7709, R.C.M. 1947, is amended
17 to read as follows:

18 "93-7709. Special Deputy constables --appointment. If
19 in any county there ~~should--be~~ is no duly appointed or
20 qualified constable, the board of county commissioners ~~in~~
21 ~~the-county~~ may, at the request of a party, after being
22 satisfied that it is expedient to do so, specially ~~depute~~
23 deputize any proper person of suitable age not interested in
24 the action to serve a summons, with or without an order to
25 arrest the defendant, ~~--or~~ and with or without a writ of

1 attachment, or to serve an execution. The justice--shall--be
 2 county commissioners are liable upon his their official bond
 3 bonds for all official acts of the person so deputed
 4 deputized. Such-deputation The appointment of the deputy
 5 shall be made in writing made on the process, and a note
 6 thereof shall be made on the justice's docket."

7 Section 54. Section 93-2801-3, R.C.M. 1947, is amended
 8 to read as follows:

9 "93-2801-3. Distribution of proposed rules --
 10 suggestions of to bench and bar --petitions-of-professional
 11 associations. Before any rule is adopted, the supreme court
 12 shall distribute copies of the proposed rule to the bench
 13 and bar of the state for their consideration and suggestions
 14 and shall give due consideration to such suggestions as they
 15 may submit to the court. The Montana-Bar-Association state
 16 bar of Montana or the association association of Montana
 17 judges judges may file with the supreme court a petition
 18 specifying their its suggestions concerning any existing or
 19 proposed rule and requesting a hearing thereon within six
 20 to months after the filing of the petition."

21 Section 55. Section 95-2009, R.C.M. 1947, is amended
 22 to read as follows:

23 "95-2009. Appeal. toall All cases on appeal from
 24 justices' or police city courts must be tried anew in the
 25 district court and may be tried before a jury of six to

1 which-may-be-drawn-from-either-the-regular-panel-or-jury-box
 2 Now-3.

3 toall The defendant may appeal to the district court
 4 by giving written notice of his intention to appeal within
 5 ten-days-to days after judgment.

6 toall Within thirty-to days the entire record of
 7 the justice justice's or police city court proceedings shall
 8 be transferred to the district court or the appeal shall be
 9 dismissed. It shall-be is the duty of the defendant to
 10 perfect the appeal."

11 Section 56. Section 93-1404, R.C.M. 1947, is amended
 12 to read as follows:

13 "93-1404. Duty of clerk -- jury boxes box. The clerk
 14 shall prepare and keep a jury box and contents as follows
 15 prescribed in this section. The number of each juror shall
 16 be written, typed, or stamped on a slip of paper or other
 17 suitable material, identical in all respects, to the slips
 18 used for the other numbers. and The slips shall be placed in
 19 a box of ample size to permit said-numbers to be
 20 thoroughly mixed, and-which-said The box shall be kept--for
 21 that-purpose-and-shall-be-known-as and plainly marked,
 22 "jury box Now-is". The numbers slips may be used as often as
 23 necessary--provided--however, except that none shall may be
 24 used which is in any manner whatsoever defaced or
 25 disfigured, or so marked that it may be recognized or

1 distinguished from the others in said the jury box ~~Now--it~~
 2 except by the number thereon. ~~There-shall-be-so-enclosed--in~~
 3 ~~said--box--one--number--and--only-one-number.~~ The box shall
 4 contain only one slip for each number corresponding to the
 5 number before the name of each juror on the jury list."

6 Section 57. Section 93-1502, R.C.M. 1947, is amended
 7 to read as follows:

8 "93-1502. District judge to draw jury. Immediately
 9 ~~upon~~ after the order mentioned in ~~the preceding section~~
 10 ~~having 93-1501 has~~ been made, the district judge shall in
 11 the presence of the clerk of the court proceed to draw the
 12 jurors by number from the jury box ~~Now--it~~."

13 Section 58. Section 93-1512, R.C.M. 1947, is amended
 14 to read as follows:

15 "93-1512. ~~Drawing--additional--jurors--when--original~~
 16 ~~number-----insufficient--order-----designating-----number~~
 17 ~~needed--selection--from-portion-of-county-only--notification~~
 18 ~~of--jurors~~ Obtaining additional jurors when necessary.
 19 Whenever it appears to a district judge that additional
 20 jurors will be needed for any term or trial, the judge shall
 21 draw as many numbers from the jury box ~~Now--it~~ as are
 22 necessary to secure the required number of additional
 23 jurors. Before drawing the numbers, the judge shall by
 24 appropriate order designate the number of jurors needed,
 25 and, when the judge believes that securing the additional

1 jurors from all of the county would cause unnecessary delay
 2 or expense, then he may order the jurors selected from only
 3 a designated portion of the county, which portion shall
 4 never be less than the corporate limits of the county seat.
 5 If, in the selection of the additional jurors, a number is
 6 drawn and the jury list shows the person represented by the
 7 number to be a resident of an area outside the area
 8 designated by the court order, then that number shall be
 9 returned to the jury box and a new number drawn. When the
 10 required number of names have been selected, the judge may
 11 order the prospective jurors notified by telephone by the
 12 clerk of the court or he may order them summoned by the
 13 sheriff either by certified mail or by personal service."

14 Section 59. Section 93-1801, R.C.M. 1947, is amended
 15 to read as follows:

16 "93-1801. Grand jury -- when and how to--be--impaneled
 17 drawn and summoned. Whenever in the opinion of the district
 18 judge a grand jury is necessary, he must make an order
 19 directing a grand jury to be drawn and summoned to attend
 20 before the court. The order must specify the number of such
 21 jurors to be drawn, which must not be less than fifteen-{15}
 22 ~~nor or~~ more than twenty-{20}. The names of such the jurors
 23 must be drawn from the jury box ~~Now--it~~, mentioned in section
 24 93-1404, ~~and--the~~ the list of names shall be certified and
 25 the jurors summoned ~~as provided for drawing and summoning~~

1 ~~in the same manner as for trial jurors, and the~~ The names
2 of any persons drawn who ~~may~~ are not be impaneled ~~upon~~ on
3 the grand jury must be again placed in said ~~the~~ jury box ~~Now~~
4 ~~it.~~"

5 Section 60. Repealer. Sections 11-1709, 16-3606,
6 93-221 through 93-233, 93-703, and 93-7608, R.C.M. 1947,
7 are repealed.

-End-

REPRESENTATIVE DAY: Where will the recall initiative go?

DIANA DOWLING: Anything passed by initiative will be assigned code numbers. It is now law.

REPRESENTATIVE LORY: (referring to the bill) Can appointed officials be impeached? Mr. Gardner will check this. He will also check section 7 concerning "items".

DIANA DOWLING: Mentioned several sections referring to annual sessions that are now obsolete. The sections being repealed were explained.

CHAIRMAN SCULLEY: Are there any opponents? If not the hearing on House Bill #43 is now closed.

CHAIRMAN SCULLEY: The hearing on House Bill #46 is now open.

PROPONENT: Joan Mayer, legal counsel, representing the code commissioner, explained again what was done throughout the bill, deleting archaic language, correcting errors.

PROPONENT: Again this is to generally revise and clarify the laws relating to the judiciary and the courts of the state of Montana.

Representative Kasper asked that section 1 be checked as to the meaning of the wording.

It was mentioned that some sections were eliminated because they were inconsistent with another statute.

Joan Mayer mentioned that in section 7 it was unclear whether this applied to district judges, so made the choice of interpretation to include them.

REPRESENTATIVE DAY: I feel the committee should address itself to section 19, subsection (b) and (c) concerning nonpartisan judicial office, etc.

Mention was made of some sections which were inconsistent and also some sections unconstitutional.

It was mentioned that section 28, concerning non-judicial days should be brought up during executive session. Also section 32 (this definition was enacted in House Bill #43).

Section 33 will be taken up in executive session.

CHAIRMAN SCULLEY: Asked Mr. Gardner to check the definition of Judicial officer, what it includes.

It was mentioned that some sections were incorporated into another section to make recodification easier.

Joan Mayer mentioned that section 48 was amended because it deals with city courts and the section is talking about JP courts, so this was changed to conform.

Section 49 will be discussed in executive session, dealing with the office of a justice.

Section 51 (subsection 2) may need to be looked at, dealing with expenses and mileage.

Discussion about the section dealing with constables as appointed, etc.

The repealer section was gone over and discussed.

OPPONENT: Dean Zinneker: I would just like to bring out, I feel it is not clear about the expenses of a district judge. It becomes very difficult with some of the people receiving 19 cents and some receiving 13 cents a mile. (page 22 - line 21 and page 23 - line 24) He commented that the judges salary cannot be changed during his term of office. He asked the committee to look at this very seriously. There was some discussion about the court reporters salary. Mrs. Dowling stated there will be two bills introduced to deal with these sections.

REPRESENTATIVE DAY: We set the salary of judges last session.

MR. ZINNEKER: There was a bill to take over the district court expenses, you mean.

The hearing closed on House Bill #46.

CHAIRMAN SCULLY: The hearing is open on HB #27.

PROPONENT: Bob Pyfer, of the code commissioner staff council. Again, this bill is for the general revision and clarification of laws relating to corporations, partnerships, and associations.

There was general discussion about what a high misdemeanor entailed, or if there existed such terminology. It was decided that it is more than a misdemeanor but not a felony.

CHAIRMAN SCULLY: Is there a special section on criminal legislation?

JUDICIARY COMMITTEE
EXECUTIVE SESSION
January 14, 1977

Following the regularly scheduled meeting the committee went into executive session in room 436, Capitol Building, Helena, Montana. Chairman Scully presided.

HOUSE BILL # 43:

This bill was brought up for consideration after being temporarily tabled. REPRESENTATIVE LORY made a motion to amend, page 32, section 28, line 10. The motion carried. REPRESENTATIVE HOLMES made a motion to amend page 16, section 13. The motion carried. REPRESENTATIVE HAND made the motion to "do pass as amended". The motion carried with the vote unanimous. (copy attached of amendments as passed).

HOUSE BILL # 46:

REPRESENTATIVE LORY moved to amend section 2, page 3, lines 8, 9, and 10, to reinstate the original language. He then made a substitute motion to strike everything after the period, following: "city or town". REPRESENTATIVE EUDAILY made a substitute motion to strike: "when open" on line 7, page 3, section 2. REPRESENTATIVE LORY made a motion to amend page 29, section 33, line 25. Page 30, section 33, line 1. The amendments carried with the vote unanimous. (copy of amendments attached).

REPRESENTATIVE LORY made a motion to "do pass as amended". The motion was seconded and the motion carried, with the following members voting "no". Representatives Holmes, Dussault and Seifert. (copy of the bill as amended attached).

CHARIMAN SCULLY appointed a committee to study the possibility of deleting exemptions now allowed when asked to serve on a jury. They could present this as a committee bill if done before the 30th legislative day.

HOUSE BILL # 81:

REPRESENTATIVE DUSSAULT made a motion "do pass". The motion was seconded by Representative Holmes. There was no discussion, the question was called and the motion carried with the vote unanimous.

The meeting adjourned at 12:05.

John Scully, Chairman

Mary Ellen Connelly, Secretary

January 14, 19 77

MR.SPEAKER:.....

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 46

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
CLARIFY THE LAWS RELATING TO THE JUDICIARY AND THE COURTS OF
THE STATE OF MONTANA."

Respectfully report as follows: That HOUSE Bill No. 46

introduced bill, be amended as follows:

1. Amend section 2, page 3, line 7.

Following: "established"

Strike: "--when open"

2. Amend section 2, page 3, lines 8 through 10.

Following: "town."

Strike: "The which court must always be open. except-upon On nonjudicial
days--and-upon-such-days it may transact criminal business only."

3.3. Amend section 33, page 29, line 25.

Following: "No"

Strike: "justice, judge, or other elective"

4. Amend section 33, page 30, line 1.

Following: "judicial"

Strike: "official"

Insert: "officer"

DOPASS

DO PASS AS AMENDED

March 07

- 3 -

He asked that the committee spend a little time on this bill and, if it could be simplified, maybe that would improve it. He said the words "that no person needs an attorney" are not in the Romney bill and perhaps they should be in this bill so that people will not be afraid of it.

Senator Turnage said that he understands the fear about changing it but is sure that basically the Romney bill is being kept.

Senator Roberts, as vice-chairman of this committee, took over at 10:10 a.m. as Senator Turnage had to appear before some House committees on legislation. He excused the witnesses and thanked them at 10:20 a.m..

CONSIDERATION OF HOUSE BILL 46 (resumed from 3/5/77):

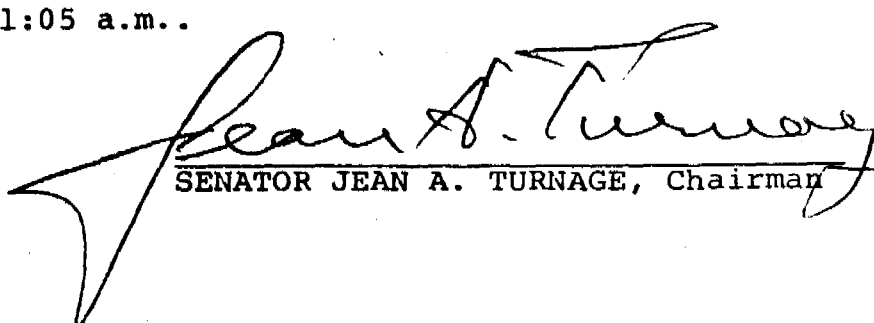
The committee reviewed the two amendments which had been made on Saturday, March 5, 1977. Joan Mayer of the Legislative Council then continued to go over the changes which had been made in the recodification of this bill.

Senator Turnage returned at 10:50 a.m. and resumed his seat as Chairman of the committee, and the committee continued the study of H.B. 46. Joan was authorized to amend page 43, line 6, without objection.

DISPOSITION OF HOUSE BILL 46:

Senator Warden moved that H.B. 46 as amended BE CONCURRED IN. The motion carried unanimously.

There being no further business before the committee at this time, they adjourned at 11:05 a.m..


SENATOR JEAN A. TURNAGE, Chairman

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 5, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, at 9:40 a.m. on the above date in Room 415 of the State Capitol Building.

ROLL CALL:

All members of the committee were present except Senator Roberts who was excused.

CONSIDERATION OF HOUSE BILL 43:

Joan Mayer of the Legislative Council was present to explain the changes which had been made in this recodification bill.

She went over the changes section by section with committee members discussing the changes and making amendments when needed.

Senator Lensink moved to amend H.B. 43 on page 7, line 14, by adding "municipal judges". The motion carried unanimously.

Senator Towe moved to amend page 28, line 10, by striking "and the secretary of state" and inserting "by their respective office". The motion carried unanimously.

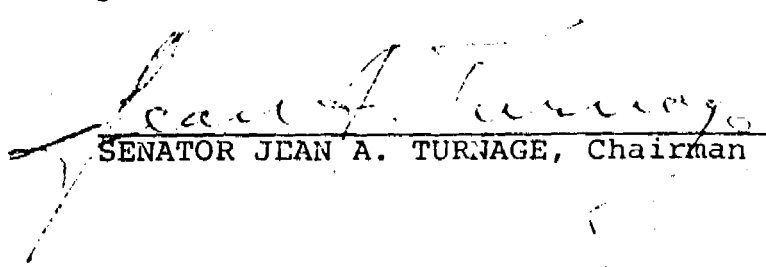
At this time it was decided that Joan Mayer and Senator Warden should check on the lists of who should receive copies of the Senate journal and session laws, and that the bill will be acted on later.

CONSIDERATION OF HOUSE BILL 46:

Joan also went over this bill section by section for the committee.

Senator Towe moved to amend page 3, line 9, and to further amend page 9, line 18, with the words being supplied by Joan after she again studied the section. The amendments carried unanimously.

There being no further time, the committee adjourned at 10:55 a.m. to resume consideration Monday if there was time.


SENATOR JEAN A. TURNAGE, Chairman

HOUSE BILL NO. 46

INTRODUCED BY KVAALEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE JUDICIARY AND THE COURTS OF THE STATE OF MONTANA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 10-1220, R.C.M. 1947, is amended to read as follows:

"10-1220. Adjudicatory hearing. (1) Prior to any adjudicatory hearing, the court shall determine whether the youth admits or denies the offenses alleged in the petition. If the youth denies all offenses alleged in the petition, the youth, his parent, guardian, or attorney may demand a jury trial on such contested offenses; in the absence of such demand, a jury trial is waived. If the youth denies some offenses and admits others, the contested offenses may be dismissed in the discretion of the youth court judge. The adjudicatory hearings shall be set forthwith immediately and accorded a preferential priority.

(2) An adjudicatory hearing shall be held to determine whether the contested offenses are supported by proof beyond a reasonable doubt in cases involving a youth alleged to be delinquent or in need of supervision. If the hearing is

before a jury, the jury's function shall be to determine whether the youth committed the contested offenses; if the hearing is before the youth court judge without a jury, the judge shall make and record his findings on all issues. If the allegations of the petitions are not established at the hearing, the youth court shall dismiss the petition and discharge the youth from custody.

(3) An adjudicatory hearing shall be recorded verbatim by whatever means the court ~~deems~~ considers appropriate.

(4) The youth charged in a petition must be present at the hearing and if brought from detention to the hearing, shall not appear clothed in institutional clothing.

(5) In a hearing on a petition under this section, the general public shall be excluded and only such persons admitted as have a direct interest in the case; except that when a hearing in the court is held on a written petition charging the commission of a felony, persons with a legitimate interest in the proceeding, including representatives of public information media, shall not be excluded from the hearing.

(6) If the court finds on the basis of a valid admission by a youth of the allegations of the petition or if a youth is found to be a delinquent youth or a youth in need of supervision the court shall schedule a dispositional hearing under this act.

REFERENCE BILL

1 (7) When a jury trial is required in a case, it may be
 2 held before the regular trial panel if the regular panel is
 3 not in attendance, the court may draw a jury from jury box
 4 Now, a jury selected as provided in Title 93, chapter 50."

5 Section 2. Section 11-1601, R.C.M. 1947, is amended to
 6 read as follows:

7 "11-1601. City court established ~~when open~~. A city
 8 court is established in each city or town. ON JUDICIAL
 9 DAYS, THE COURT SHALL BE OPEN FOR ALL BUSINESS, CIVIL AND
 10 CRIMINAL. ON NONJUDICIAL DAYS AS DEFINED IN 93-501, THE
 11 COURT MAY TRANSACT CRIMINAL BUSINESS ONLY. The which court
 12 ~~must always be open~~ except upon ~~on~~ nonjudicial days, and
 13 upon such days it may transact criminal business only."

14 Section 3. There is a new R.C.M. section numbered
 15 11-1601.1 that reads as follows:

16 11-1601.1 Election and terms of office of city judges.
 17 The election of city judges and their terms of office are
 18 provided for in Title 11, chapter 7.

19 Section 4. Section 11-1602, R.C.M. 1947, is amended to
 20 read as follows:

21 "11-1602. Jurisdiction of city courts Concurrent
 22 jurisdiction. (1) The city court has concurrent jurisdiction
 23 with the justices' justice's court of all misdemeanors
 24 punishable by a fine not exceeding five hundred dollars
 25 (\$500) or by imprisonment not exceeding six (6) months or

1 by both fine and imprisonment, under the following
 2 conditions:

3 (1) Any action charging the commission of an offense
 4 within the city or town limits in violation of a city or
 5 town ordinance shall be brought in the name of the city or
 6 town as the plaintiff and against the accused as the
 7 defendant.

8 (2) Any other action brought for violation of a state
 9 law within the city shall be brought in the name of the
 10 state of Montana as the plaintiff and against the accused as
 11 the defendant.

12 (3) (2) Application Applications for search warrants
 13 and complaints charging the commission of a felony may be
 14 filed in the city or town court, and when when they are so
 15 filed, the city judge shall have has the same jurisdiction
 16 and responsibility as a justice of the peace, including the
 17 holding of a preliminary hearing. The city attorney may
 18 file an application for a search warrant or a complaint
 19 charging the commission of a felony when the offense was
 20 committed within the city limits. The county attorney,
 21 however, must handle any action after a defendant is bound
 22 over to district court."

23 Section 5. Section 11-1603, R.C.M. 1947, is amended to
 24 read as follows:

25 "11-1603. Jurisdiction for violation of ordinances,

1 ~~and civil and criminal jurisdiction~~ Exclusive jurisdiction.
 2 The police city court also has exclusive jurisdiction of:
 3 1. ~~(1) Of all~~ proceedings for the violation of any an
 4 ordinance of the city or town, both civil and criminal;
 5 which must be prosecuted in the name of the city or town;
 6 2. ~~(2) Of any action when the amount of the taxes or~~
 7 ~~assessments sought does not exceed \$300, actions~~ for the
 8 collection of taxes and or assessments levied for any of the
 9 following purposes, except that no lien on the property
 10 taxed or assessed for the nonpayment of the taxes or
 11 assessment may be foreclosed in any such action:
 12 (a) city or town purposes; or
 13 (b) for the erection or improvement of public
 14 buildings;
 15 (c) for the laying out, or opening, or improving any
 16 of a public street, or sidewalk, alley, or bridge; or
 17 (d) for the purpose of acquisition or the improvement
 18 of any public grounds; or and
 19 (e) for any and all public improvements made or
 20 ordered by the city or town within its limits; when the
 21 amount of the tax or assessments sought to be collected
 22 against the person assessed does not exceed three hundred
 23 dollars; but no lien upon the property taxed or assessed for
 24 the nonpayment of the taxes or assessment can be foreclosed
 25 in any such action;

1 3. ~~(3) Of an action~~ actions for the collection of money
 2 due to the city or town or from the city or town to any
 3 person, when the amount sought to be collected, exclusive of
 4 interest and costs, does not exceed three hundred dollars
 5 \$300;
 6 4. ~~(4) For when the amount claimed, exclusive of costs,~~
 7 ~~does not exceed \$300, actions for:~~
 8 (a) the breach of any an official bond given by any a
 9 city or town officer; and
 10 (b) for the breach of any contract; and
 11 (c) any action for damages, in which when the city or
 12 town is a party, or is in any way interested; and
 13 (d) all the enforcement of forfeited recognizances
 14 given to, or for the benefit of, or in on behalf of the city
 15 or town; and
 16 (e) upon all collection on bonds given upon any an
 17 appeal taken from the judgment of the court in any action
 18 mentioned in subsections (4)(a) through (4)(d) above named;
 19 where the amount claimed, exclusive of costs, does not
 20 exceed three hundred dollars;
 21 5. ~~(5) For~~ actions for the recovery of personal
 22 property belonging to the city or town, when the value of
 23 the property, exclusive of the damages for the taking or
 24 detention, does not exceed three hundred dollars \$300; and
 25 6. ~~(6) Of an action~~ actions for the collection of any a

1 license ~~fee~~ required by any ~~an~~ ordinance of the city or
2 town."

3 Section 6. There is a new R.C.M. section numbered
4 11-1603.1 that reads as follows:

5 11-1603.1. Who named as plaintiff. (1) An action
6 brought for violation of a city or town ordinance shall be
7 brought in the name of the city or town as the plaintiff and
8 against the accused as the defendant.

9 (2) An action brought for violation of a state law
10 within the city or town shall be brought in the name of the
11 state of Montana as the plaintiff and against the accused as
12 the defendant.

13 Section 7. Section 11-1604, R.C.M. 1947, is amended to
14 read as follows:

15 "11-1604. When substitute for judge called in cannot
16 act. The city judge or mayor may call in a justice of the
17 peace or some qualified resident of the city or town to act
18 in the judge's place, whenever the judge is:

19 (1) ~~in all cases in which the judge is~~ a party in a
20 case; or

21 (2) ~~in which he is~~ interested in a case; or

22 (3) ~~when he is~~ related to either party in a case by
23 consanguinity or affinity within the sixth degree; and or

24 (4) ~~in case of his sickness~~ sick, absence ~~absent~~, or
25 inability ~~unable~~ to act; the justice judge or mayor may call

1 in a justice of the peace or some qualified resident of the
2 city or town to act in his place and stead."

3 Section 8. Section 11-1710, R.C.M. 1947, is amended to
4 read as follows:

5 "11-1710. Summons -- time for answer. Summons ~~the~~
6 ~~summons~~ in municipal court shall be signed by the clerk and
7 shall conform as near as ~~may be possible~~ to the provisions
8 of ~~section 93-3003~~ M. R. Civ. P., Rules 4 and 12(a), except
9 that the time for answering shall be ~~ten~~ 10 days, instead of
10 twenty 20."

11 Section 9. Section 11-1711, R.C.M. 1947, is amended to
12 read as follows:

13 "11-1711. Practice -- reply. The provisions of
14 sections 93-6901 to ~~through~~ 93-7405 ~~inclusive~~ and sections
15 93-7701 to ~~through~~ 93-7714 ~~inclusive~~ are hereby adopted
16 and made applicable to practice and procedure in municipal
17 court, except where ~~when the same they~~ are repugnant to the
18 provisions of this act; ~~The the~~ words "Municipal Court
19 municipal court" being substituted for justice court; and
20 "judge" for justice of the peace ~~where the same appears in~~
21 ~~said chapters~~. Where ~~Whenever~~ the answer contains a
22 counterclaim or any new matter, the plaintiff, ~~if he does~~
23 ~~not demur~~ shall within five 5 days after the service and
24 filing of the answer, reply to such ~~the~~ counterclaim or new
25 matter in the manner and form provided for in section

1 ~~93-3601 M. R. Civ. P., Rules 7(a), 8(e)(2), and 10(b).~~"

2 Section 10. Section 16-3001, R.C.M. 1947, is amended
3 to read as follows:

4 "16-3001. Duties and records to be kept. The clerk of
5 the district court, in addition to the duties prescribed
6 elsewhere, must shall:

7 1. ~~Take~~ ~~take~~ charge of and safely keep or dispose
8 of according to law all books, papers, and records which
9 may be are filed or deposited in his office;

10 2. ~~Act~~ ~~act~~ as clerk of the district court and
11 attend each term or session thereof and upon the judges at
12 chambers when required;

13 3. ~~Issue~~ ~~issue~~ all process and notices required to
14 be issued;

15 4. ~~Enter~~ ~~enter~~ all orders, judgments, and decrees proper to
16 be entered;

17 5. ~~Keep~~ ~~keep~~ in each court a register of action, as
18 provided in the code of civil procedure ~~23-8101~~, which must
19 also state the names of the attorneys and all fees charged
20 in each action and a list of all the fees charged;

21 6. ~~Keep for the district court in separate volumes~~
22 ~~an index of all suits labeled "General index - Plaintiffs"~~
23 ~~each page of which must be divided into seven columns under~~
24 ~~their respective heads alphabetically arranged as follows:~~
25 ~~"Number of suits" "Plaintiffs" "Defendants" "Date of~~

1 ~~judgment" "Number of judgment" "Page of entry of judgment~~
2 ~~in judgment books" "Page of minute book of district court"~~
3 ~~also an index labeled "General index - defendants" each~~
4 ~~page of which must be divided into seven columns under their~~
5 ~~respective heads alphabetically arranged as follows:~~
6 ~~"Number of suits" "Defendants" "Plaintiffs" "Date of~~
7 ~~judgment" "Number of judgment" "Page of entry of judgment~~
8 ~~in judgment books" "Page in minute book of district court"~~

9 16) KEEP FOR THE DISTRICT COURT TWO SEPARATE INDEXES,
10 ONE LABELED "GENERAL INDEX -- PLAINTIFFS" AND THE OTHER
11 LABELED "GENERAL INDEX -- DEFENDANTS", WHICH SHALL BE IN THE
12 FORM PRESCRIBED IN 16-3003;

13 5. ~~16) 17) Keep keep~~ a minute book, which must contain
14 the daily proceedings of court, which may be signed by the
15 clerk, and which minute book must be indexed in the names of
16 both defendant and plaintiff;

17 6. ~~17) 18) Keep keep~~ a book called "Record record of
18 probate proceedings," which must contain all the orders and
19 proceedings of the district court sitting in probate
20 matters as prescribed elsewhere in this code, and which
21 index must be indexed in the name names of the deceased
22 person and the executor or administrator or the names of
23 the guardian or and the ward;

24 7. ~~18) 19) Keep keep~~ a book called the "Probate probate
25 record books," in which must be recorded all wills, bonds,

1 letters of administration, letters testamentary, and other
2 papers as prescribed ~~elsewhere in this code~~ by law and
3 which record must be indexed in ~~like the same~~ manner as the
4 "Record ~~record~~ of probate proceedings";

5 ~~§191(10)~~ Keep ~~keep~~ two books;

6 (a) ~~the first book must be labeled "declaration of~~
7 ~~intention to become citizens of the United States" and must~~
8 ~~have entered in it in one of which must be entered in~~
9 alphabetical order the names of all persons who from the
10 organization of the court have declared ~~or who may~~
11 ~~hereafter declare~~ their intention to become citizens of the
12 United States ~~and with the date of such declaration which~~
13 ~~book must be labeled "Declaration of intention to become~~
14 ~~citizens of the United States" and;~~

15 (b) ~~the second book must be labeled "naturalization --~~
16 ~~final papers" and must have entered in it in the other of~~
17 ~~which must be entered in alphabetical order the names of all~~
18 persons who have been ~~or may be hereafter~~ admitted ~~as~~
19 citizens of the United States by the court of which he is
20 clerk ~~which book must be labeled "Naturalization Final~~
21 ~~papers" and enter~~ in a separate column, opposite each
22 name, the country of which ~~such the~~ person was before
23 ~~formerly~~ a citizen or subject, the date of his admission,
24 and the page of the minute book or book of record containing
25 the order admitting him ~~as~~ a citizen;

1 ~~§191(11)~~ Keep ~~keep~~ a book called "Register ~~register~~
2 of criminal actions," ~~which must have a proper index and~~
3 in which must be entered the title and number of the action
4 with a memorandum of every paper filed, and order or
5 proceeding had therein, with the date thereof, and a
6 memorandum of the name of every witness, ~~the~~ number of days
7 ~~in attendance he attended~~, and his ~~total~~ witness fees; and
8 ~~a proper index to the same;~~

9 ~~§191(12)~~ Keep ~~keep~~ a book called a "Register
10 register of probate and guardianship proceedings," in which
11 must be entered the name of the estate ~~and the register~~
12 number, with a memorandum of every paper filed, and order or
13 proceeding had therein, with the date thereof, and a
14 ~~memorandum of~~ the fees charged;

15 ~~§191(13)~~ Keep ~~keep~~ an index book of persons sent to ~~the insane~~
16 ~~asylum as provided in section 30-208;~~

17 ~~§191(14)~~ Keep ~~keep~~ a fee book, in which must be
18 shown, in an itemized form, all fees that he has received
19 for any services rendered ~~in his capacity as such clerk;~~

20 ~~§191(15)~~ Keep ~~keep~~ a book called a "Book ~~book~~ of
21 jurors' certificates," in which must be ~~contained~~ contain
22 the blank certificates and stubs to be filled, as provided
23 in this code 25-405;

24 ~~§191(16)~~ Keep ~~keep~~ a "witness book," in which must
25 be ~~contained~~ contained blank certificates and stubs to be

filled, as provided in ~~25-406~~ this code;

~~15-1151(16)~~ Keep keep a record of the attendance of all jurors, and of witnesses in criminal actions, and compute the mileage of each."

Section 11. Section 16-3603, R.C.M. 1947, is amended to read as follows:

"16-3603. Governed by the law prescribing sheriffs' duties. All the provisions of sections 16-2701 to through 16-2722 ~~inclusive of this code~~, except subsections (4), (5), and (6) of the fourth and sixth subdivisions of section 16-2702, apply to constables and govern their powers, duties, and liabilities."

Section 12. Section 16-3604, R.C.M. 1947, is amended to read as follows:

"16-3604. Duties of justices of the peace. Justices of the peace must perform such duties as are prescribed in sections 93-6601 to through 93-7714 ~~of the code of civil procedure (title 93)~~, and such any other duties ~~as are~~ prescribed by law."

Section 13. Section 16-3605, R.C.M. 1947, is amended to read as follows:

"16-3605. Justices not to practice law. (1) Except as provided in subsection (2), a No justice of the peace shall may not;

(a) practice law;

(b) draw contracts, conveyances, or other legal instruments or documents; i nor

(c) ~~shall--they~~ take any claim or bill for collection, nor or act as a collection agent in any sense ~~whatever~~; i nor or

(d) ~~shall--they~~ perform any legal duties other than those prescribed by law as their his official duties in the conduct of cases and proceedings in ~~their courts~~ his court. ~~Any--justice of the peace violating any of the provisions in this section shall be deemed guilty of a malfeasance in office, and shall forthwith be removed from his office of justice of the peace, and shall thereafter be disqualified from holding such office.~~

(2) ~~Provided, however, that a~~ A justice of the peace who is an attorney and who is admitted to practice law before the supreme court of the state of Montana may engage in the general practice of law and practice law in all courts in the state of Montana, except that such a justice of the peace, his law partner, or associate, or a member, associate, or employee of a firm of which he is a member ~~shall may~~ not represent a party involved in a case which is filed or tried in his court or in any justice court located in the same township county as his court, or which is appealed from ~~said courts~~ such a court.

(3) A justice of the peace who violates any of the

1 ~~provisions of this section is guilty of malfeasance in~~
 2 ~~office and shall be removed from his office of justice of~~
 3 ~~the peace and thereafter be disqualified from holding such~~
 4 ~~office."~~

5 Section 14. Section 16-3607, R.C.M. 1947, is amended
 6 to read as follows:

7 "16-3607. Justice or constable purchasing ~~not~~ to
 8 purchase judgment. (1) ~~A~~ Every justice of the peace or
 9 constable of the same county who purchases ~~may not purchase~~
 10 or ~~is~~ be interested in the purchase of any judgment or part
 11 thereof on the his docket ~~of~~ or on any docket in the his
 12 possession ~~of such justice is guilty of a misdemeanor. A~~
 13 ~~constable may not purchase or be interested in the purchase~~
 14 ~~of any judgment or part thereof on the docket of a justice~~
 15 ~~of the peace of the county of which he is a constable or on~~
 16 ~~a docket in the possession of such a justice.~~

17 (2) ~~Violation of subsection (1) is a misdemeanor."~~ ,

18 Section 15. Section 25-307, R.C.M. 1947, is amended to
 19 read as follows:

20 "25-307. Collection and disposition of fees --
 21 itemized statement. ~~Justices~~ Each justice of the peace shall
 22 collect the fees prescribed by law for justice ~~justices~~
 23 courts and shall pay ~~the same~~ them into the county treasury
 24 of the county wherein ~~they~~ he holds office, on or
 25 before the ~~tenth~~ 10th day of each month, to be credited to

1 the general fund of the county~~;~~ and ~~He~~ shall also file an
 2 itemized statement showing all fees received during the
 3 preceding month in the his justice court~~;~~ ~~said~~ The
 4 statement shall ~~also~~ state that all fees required by law to
 5 be paid during the preceding month in connection with
 6 matters pending before the court ~~during the preceding month~~
 7 have been paid into the county treasury and listed in ~~said~~
 8 ~~the~~ itemized statement and that he has not received or been
 9 promised, nor has any one else received or been promised for
 10 him, any other moneys, emolument, or thing ~~whatsoever~~ by
 11 virtue of or in connection with his office~~;~~ and ~~said~~ The
 12 statement shall be subscribed and sworn to by the justice.
 13 ~~This section, however, shall not apply to "miscellaneous~~
 14 ~~fees" excepted by section 25-304, supra."~~

15 Section 16. Section 25-401, R.C.M. 1947, is amended to
 16 read as follows:

17 "25-401. Jurors' fees in courts of record. Grand A
 18 ~~grand or~~ end trial jurors juror shall receive ~~twelve dollars~~
 19 ~~{12}~~ per day for attendance before any court of record and
 20 a mileage allowance, as provided in section 59-801, ~~each way~~
 21 for traveling each way between his ~~from and to their~~
 22 residence and the county seat. ~~Any~~ A juror who is excused
 23 from attendance upon his own motion on the first day of his
 24 appearance in obedience to notice or who has been summoned
 25 as a special juror and not sworn in the trial of the case,

1 in the discretion of the court, may receive per diem and
2 mileage."

3 Section 17. Section 25-403, R.C.M. 1947, is amended to
4 read as follows:

5 "25-403. ~~Compensation-of-jurors~~ Jurors' fees in courts
6 not of record and ~~at~~ coroner's inquests. Jurors in courts
7 not of record, in both civil and criminal actions, shall
8 receive a fee of seven-dollars-and-fifty-cents--(\$7.50) per
9 day, ~~but in~~ In civil actions, the jury jurors' fees must be
10 paid by the party demanding the jury, and ~~must be~~ taxed as
11 costs against the losing party. Jurors in coroner's inquest
12 ~~inquests~~ shall receive ~~for their services the sum of seven~~
13 ~~dollars-and-fifty-cents~~ a fee of \$7.50 per day."

14 Section 18. Section 82-503, R.C.M. 1947, is amended to
15 read as follows:

16 "82-503. Fees. ~~(1) The clerk~~ He must collect in
17 advance the following fees:

18 (a) For ~~for~~ filing the transcript on appeal, in each
19 ~~any~~ civil case appealed to the supreme court, ~~twenty-dollars~~
20 ~~(\$20)~~ payable by the appellant, and ~~ten--dollars--(\$10)~~
21 payable by ~~the~~ respondent, at the time of his appearance, ~~as~~
22 ~~payment~~ in full for all services rendered in each ~~the~~ case,
23 up to the remittitur to the court below;

24 (b) for filing a petition for any writ, ~~twenty-dollars~~
25 ~~(\$20), as payment~~ in full for all services rendered in each

1 ~~the~~ cause;

2 (c) for a certificate of admission as an attorney and
3 ~~counselor, five-dollars--(\$5);~~

4 (d) for making transcripts, ~~or~~ copies of papers or
5 ~~record records, fifteen~~ 15 cents ~~(\$15)~~ per folio;

6 (e) for comparing any document requiring a
7 certificate, ~~five~~ 5 cents ~~(\$5)~~ per folio;

8 (f) for each certificate under seal, ~~one-dollar--(\$1).~~

9 (2) Three-fourths ~~(3/4)~~ of all fees collected by him
10 ~~the clerk~~ must be paid into the state treasury, ~~which and~~
11 shall be credited to ~~the--credit--of~~ the general fund,
12 ~~one-fourth--(1/4)~~ One-fourth of all fees collected by him
13 shall be paid to the ~~secretary-of-the~~ public employees'
14 retirement system--board division of the department of
15 administration to be credited to the Montana judges'
16 retirement fund system account."

17 Section 19. Section 82-505, R.C.M. 1947, is amended to
18 read as follows:

19 "82-505. Settlements, ~~when-and-how-made~~ and accounts
20 to state auditor. He ~~The clerk~~ is responsible and must
21 account for, and, in his settlement with the state auditor,
22 must be charged with, the full amount of all fees collected
23 or chargeable, and accruing in causes brought into the court
24 for services rendered therein up to the time of each
25 settlement, which ~~the~~ settlement must take place quarterly,

1 and must immediately thereafter ~~the clerk must~~ pay the
 2 amount found due into the treasury ~~or to the public~~
 3 ~~employees' retirement division, as provided in 82-503(2).~~ He
 4 must also, at the end of each quarter, render to the state
 5 auditor, in such form as that officer prescribes, an account
 6 in detail, ~~and~~ under oath, of all fees chargeable and
 7 accruing in causes brought into court and not included in
 8 his previous accounts ~~rendered~~. His salary ~~must may~~ not be
 9 allowed or paid until all fees so accruing, ~~and~~ for which he
 10 is chargeable, have been accounted for and paid over."

11 Section 20. Section 82-2007, R.C.M. 1947, is amended
 12 to read as follows:

13 "82-2007. Distribution of reports. (1) On the
 14 publication of each volume of ~~said the~~ reports, the
 15 secretary of state shall purchase 300 copies from the of
 16 ~~said~~ publishers for the use of the state, ~~three-hundred~~
 17 ~~copies thereof, and he shall distribute the same them~~ in the
 18 manner following manner:

19 (a) To ~~to~~ the law libraries of each state and
 20 territory of the United States, one copy;

21 (b) to the ~~library library~~ of Congress ~~congress~~, five
 22 copies;

23 (c) to each of the judges of the United States
 24 district courts of the states of Idaho, Nevada, California,
 25 Washington, Montana, Wyoming, and Oregon, one copy;

1 (d) to each ~~state--officer~~, justice of the supreme
 2 court, district judge, county attorney, and clerk of the a
 3 district court in this state, one copy;

4 (e) ~~to each state office, as many copies as the~~
 5 ~~secretary of state determines are needed;~~

6 (f) to the law library of the state of Montana, three
 7 copies.

8 (2) He shall also distribute ~~said the~~ reports to
 9 literary and scientific institutions, publishers, ~~and~~
 10 authors, and legislative reference libraries of other states
 11 with whom ~~which~~ the state law librarian has established or
 12 ~~may hereafter establish~~ a system of exchange.

13 (3) He shall also distribute to the ~~University~~
 14 ~~university~~ of Montana ~~not-to-exceed up to 50~~ fifty copies to
 15 be used by the law librarian of the state university for the
 16 purpose of exchanges with universities and institutions of
 17 higher education in other states.

18 (4) All reports distributed to state, district, and
 19 other officers in the state ~~shall be are~~ for the use of
 20 their offices and shall be, by the person receiving ~~the same~~
 21 ~~them~~, turned over to his successor in office, ~~and the the~~
 22 secretary of state shall take proper receipts for ~~such the~~
 23 reports."

24 Section 21. Section 93-219, R.C.M. 1947, is amended to
 25 read as follows:

1 "93-217. Judge---becoming---candidate---for---elective
 2 office---resigning-----of-----supreme-----court
 3 office---exceptions---vacancy Justice or judge not to run for
 4 office--resignation required. (1)(a) Whenever--any If a
 5 person holding--or occupying the office of chief justice or
 6 associate justice on of the supreme court or judge of a
 7 district court of the state of Montana shall-become becomes
 8 a candidate for election to any elective office under the
 9 laws offer--in the state of Montana, such-person he shall
 10 forthwith immediately, and in any event at or before the
 11 time required--for--such--person--to when he must file as a
 12 candidate for such office at in any primary or special or
 13 general election, resign said from his office of chief
 14 justice, or associate justice of--said--supreme--court, or
 15 district judge.

16 (b) The resignation becomes effective immediately upon
 17 its delivery to the proper officer or superior.

18 (c) The resignation requirement applies except where
 19 such when the person is a bona fide candidate for
 20 re-election reelection to the identical office then held-or
 21 occupied by him or for another nonpartisan judicial office
 22 the term of which shall does not commence not earlier than
 23 the end of the term of the office then held-or occupied by
 24 such---justice him, and--said--resignation--shall--become
 25 effective--forthwith--on--delivery--of--the--same--to--the--proper

1 officer-or-superior and

2 (2) in In the event of a failure so to resign, said
 3 the office of chief justice, or associate justice, of--said
 4 supreme--court or of district judge of-any-of-said-district
 5 courts--the--same--shall--ipso--factor--become--wholly
 6 automatically becomes vacant and--unoccupied and the said
 7 former holder-or occupant shall-have has no further right,
 8 power, or authority therein for any purpose, and no right to
 9 any emoluments thereof, notwithstanding the fact that a
 10 successor is not appointed or elected, and--said The vacancy
 11 shall-become becomes operative to deprive any the person of
 12 the emoluments of said the office then-held in order to
 13 carry out the policy of this act."

14 Section 22. Section 93-302, R.C.M. 1947, is amended to
 15 read as follows:

16 "93-302. Number of judges. In each judicial district
 17 there must be the following number of judges of the district
 18 court, who must be elected by the qualified voters of the
 19 district, and whose term of office must-be is six-(6) years,
 20 to-wit:

21 (1) in in the first 1st, second 2nd, eleventh 11th,
 22 and sixteenth 16th districts, two judges each;

23 (2) in the thirteenth--eighth-and-fourth 4th, 8th, and
 24 13th districts, three judges, each; and

25 (3) in all other districts, one judge each."

1 Section 23. Section 93-305, R.C.M. 1947¹ is amended to
2 read as follows:

3 "93-305. Expenses when ~~sitting~~ out of district ~~or~~
4 ~~attending-judges-a-conference~~. Every A judge who ~~shall-sit~~
5 ~~sits~~ in the place of another judge in the trial or hearing
6 of an action or proceeding in a district other than his own
7 or in the supreme court, or who ~~shall-attend~~ attends a
8 conference of judges in Helena called by the chief justice
9 of the supreme court, shall be paid his actual and necessary
10 travel expenses while engaged in that service as follows:

11 (1) His his travel expenses in going from the county
12 seat which he makes his place of residence to the place of
13 trial, or conference, and return; and

14 (2) his board and lodging while engaged in the trial,
15 hearing, or conference. ~~All-travel-expense-reimbursements~~
16 ~~shall-be-determined-as-provided-for-in-sections-59-538~~
17 ~~59-539-and-59-801.~~"

18 Section 24. Section 93-313, R.C.M. 1947, is amended to
19 read as follows:

20 "93-313. Expenses of ~~judges-holding-court-in-other~~
21 ~~counties-when-not-in-county-of-residence~~. Each A district
22 judge of a judicial district ~~in-this-state~~, composed of more
23 than one county, ~~when-whg~~, for the purpose of holding court
24 and disposing of judicial business, he goes to a county of
25 his judicial district, other than the county in which he

1 resides, and therein holds court or transacts judicial
2 business, shall be paid all of his actual and necessary
3 expenses of transportation and living, incurred on account
4 thereof ~~and-all-expenditures-made-therefor-as-provided-for~~
5 ~~in-sections-59-538-59-539-and-59-801~~, from the time he
6 leaves his place of residence until he returns thereto."

7 Section 25. Section 93-325, R.C.M. 1947, is amended to
8 read as follows:

9 "93-325. Appointment of ~~judge~~ ~~salary~~ ~~--~~
10 qualifications. (1) The judges of the judicial district in
11 which a small claims court has been created shall appoint a
12 judge of the small claims court who shall:

13 (a) take the oath required of judges;
14 (b) serve at the pleasure of the district court
15 judges;

16 (c) be paid a salary set by the district court judge
17 judges; and

18 (d) be an attorney licensed to practice law in the
19 ~~state-of~~ Montana.

20 (2) The judge ~~judges~~ of the district court may appoint
21 more than one ~~fit~~ small claims court judge for any small
22 claims court, ~~and-the~~ the salary shall be prorated among the
23 judges appointed."

24 Section 26. Section 93-408, R.C.M. 1947, is amended to
25 read as follows:

1 "93-408. ~~jurisdiction~~ Civil jurisdiction of justices'
 2 courts. The ~~justice~~ justices' courts have jurisdiction:
 3 1. ~~In~~ In actions arising on contract for the
 4 recovery of money only, if the sum claimed does not exceed
 5 ~~fifteen-hundred-dollars-(\$1,500)~~₁ exclusive of court costs;
 6 2. ~~In~~ In actions for damages not exceeding fifteen
 7 ~~hundred-dollars-(\$1,500)~~₁ exclusive of ~~court~~ court costs,
 8 for taking, detaining, or injuring personal property, or for
 9 injury to real property where ~~when~~ no issue is raised by the
 10 verified answer of ~~the~~ defendant involving the title to or
 11 possession of the real property same;
 12 3. ~~In~~ In actions for damages not exceeding fifteen
 13 ~~hundred--dollars--(\$1,500)~~₁ exclusive of court costs, for
 14 injury to the person, ~~provided, except that,~~ in actions for
 15 false imprisonment, libel, slander, criminal conversation,
 16 seduction, malicious prosecution, ~~bastardy determination of~~
 17 ~~paternity, and abduction, and attenuation of affections,~~ the
 18 justice of the peace ~~shall~~ does not have jurisdiction;
 19 4. ~~In~~ In actions to recover the possession of
 20 personal property, if the value of ~~such~~ the property does
 21 not exceed ~~fifteen-hundred-dollars-(\$1,500)~~₁;
 22 5. ~~In~~ In actions for a fine, penalty, or
 23 forfeiture, not exceeding ~~fifteen-hundred-dollars-(\$1,500)~~₁,
 24 given ~~imposed~~ by a statute, or the an ordinance of an
 25 incorporated city or town, where ~~when~~ no issue is raised by

1 the answer involving the legality of any tax, impost,
 2 assessment, toll, or municipal fine;
 3 5. ~~In~~ In actions upon bonds or undertakings
 4 conditioned for the payment of money, ~~if~~ when the sum
 5 claimed does not exceed ~~fifteen--hundred--dollars--(\$1,500)~~₁,
 6 though the penalty may exceed that sum;
 7 6. ~~To~~ To take and enter judgment for the recovery
 8 of money on the confession of a defendant, when the amount
 9 confessed does not exceed ~~fifteen-hundred-dollars-(\$1,500)~~₁
 10 exclusive of court costs."
 11 Section 27. Section 93-505, R.C.M. 1947, is amended to
 12 read as follows:
 13 "93-505. Sittings of court -- when private. 1. In an
 14 action for divorce, criminal conversation, ~~or~~ or seduction, ~~or~~
 15 ~~breach-of-promise-of-marriage,~~ the court may direct the
 16 trial of any issue of fact joined therein to be private, and
 17 exclude all persons except the officers of the court, the
 18 parties, their witnesses, and counsel;
 19 2. ~~provided, that~~ During the examination of a witness
 20 in any cause, the court may, in the exercise of a sound its
 21 discretion, ~~during the examination of a witness,~~ exclude any
 22 ~~some~~ or all of the other witnesses in the cause."
 23 Section 28. Section 93-507, R.C.M. 1947, is amended to
 24 read as follows:
 25 "93-507. Nonjudicial days. 1. No court ~~must~~ may be

1 open; nor ~~must~~ may any judicial business be transacted on
2 legal holidays as provided for in ~~section 19-107 and or~~ on a
3 day appointed by the president of the United States; or by
4 the governor of this state; for a public fast, thanksgiving,
5 or holiday, except for the following purposes:

6 ~~1-(a) To give, upon their its request, instructions~~
7 to a jury when deliberating on ~~their its~~ verdict;:

8 ~~2-(b) To receive a verdict, or discharge a jury;~~

9 ~~3-(c) For for the exercise of the powers of a~~
10 magistrate in a criminal action; or in a proceeding of a
11 criminal nature;:

12 ~~(2) but-injunctions Injunctions, writs of prohibition,~~
13 and habeas corpus may be issued and served on any day."

14 Section 29. Section 93-702, R.C.M. 1947, is amended to
15 read as follows:

16 "93-702. Qualifications and residence. (1) No person
17 is eligible for the office of justice of the supreme court
18 or judge of ~~the a~~ district court unless he is a citizen of
19 the United States, who has resided in the state ~~two-(2)~~
20 years immediately before taking office, and has been
21 admitted to practice law in Montana for at least ~~five-(5)~~
22 years prior to the date of appointment or election.

23 (2) A judge of ~~the a~~ district court need not be a
24 resident of the district for which he is elected or
25 appointed at the time of his election or appointment, but

1 after his election or appointment, he ~~shall~~ must reside in a
2 county seat in the district for which he is elected or
3 appointed during his term of office. Justices of the supreme
4 court ~~shall~~ must reside within the state during their terms
5 of office."

6 Section 30. Section 93-705, R.C.M. 1947, is amended to
7 read as follows:

8 "~~93-705. Judicial nomination--commission---creation--~~
9 ~~creation, composition, and function of commission. There-is~~
10 ~~created-a~~ A judicial nomination commission for the state of
11 Montana is created, whose ~~its~~ function ~~it-shall-be is~~ to
12 provide the governor with a list of candidates for ~~nominee~~
13 nomination to fill any vacancy on the supreme court or any
14 district court of the state of Montana. The commission shall
15 be composed of seven ~~(7)~~ members as follows:

16 (1) four ~~(4)~~ lay members, who are neither judges or
17 ~~nor~~ attorneys, active or retired, ~~and who shall~~ reside in
18 different geographical areas of the state; ~~and each of these~~
19 ~~four-(4)-members--shall--be~~ whom is representative of a
20 different industry, business, or profession, whether ~~or-not~~
21 actively so engaged or retired; ~~such-members who~~ shall be
22 appointed by the governor;

23 (2) two ~~(2)~~ attorneys, actively engaged in the
24 practice of law, one ~~(1)~~ from each congressional district,
25 who shall be appointed by the supreme court;

1 (3) one ~~the~~ district judge elected by the district
 2 judges under an elective procedure initiated and conducted
 3 by the supreme court and certified to such election by the
 4 chief justice of the supreme court, ~~and the which for the~~
 5 ~~purpose of the language of this act~~ election shall be
 6 considered as an appointment ~~for the purposes of this act.~~"

7 Section 31. Section 93-725, R.C.M. 1947, is amended to
 8 read as follows:

9 "93-725. ~~Judicial officer not to participate in~~
 10 ~~investigation of self or relative~~ Nonparticipation of
 11 interested judicial officer. A judicial officer who is a
 12 member of the commission or of the supreme court ~~shall~~ may
 13 not participate in any proceeding involving his own censure,
 14 suspension, removal, or retirement or that of his spouse, a
 15 relative within the sixth degree of consanguinity, or that
 16 of the spouse of such a relative."

17 Section 32. Section 93-726, R.C.M. 1947, is amended to
 18 read as follows:

19 "93-726. ~~Disqualification~~ Interim disqualification of
 20 ~~judge pending criminal prosecution or proceeding before~~
 21 commission judicial officer. A judge judicial officer is
 22 disqualified from acting as a judge such, without loss of
 23 salary, while there is pending:

24 (1) an indictment or an information charging him with
 25 a crime punishable as a felony under Montana or federal

1 law; or

2 (2) a formal proceeding before the commission for his
 3 removal or retirement."

4 Section 33. Section 93-903, R.C.M. 1947, is amended to
 5 read as follows:

6 "93-903. No judicial officer to have partner
 7 practicing law. No ~~justice judge or other elective~~
 8 ~~judicial officer~~ OFFICER must of a court of record may
 9 have a partner acting as attorney or counsel in any court of
 10 this state."

11 Section 34. Section 93-1203, R.C.M. 1947, is amended
 12 to read as follows:

13 "93-1203. Grand jury defined. A grand jury is a body
 14 of persons, ~~seven~~ 11 in number, returned ~~in pursuance of~~ as
 15 provided by law from the citizens of a county, before a
 16 court of competent jurisdiction, and sworn to inquire of
 17 into public offenses committed or triable within the
 18 county."

19 Section 35. Section 93-1304, R.C.M. 1947, is amended
 20 to read as follows:

21 "93-1304. Who exempt from jury duty. (1) A person is
 22 exempt from liability to act as a juror if he is:

23 1=(a) A a judicial, civil, or military officer of the
 24 United States or of this state;

25 2=(b) A a person holding a public office in the this

1 state, or in a county, township, city, or town of this state;
 2 3=(c) An an attorney at-law in practice;
 3 4=(d) A minister of the gospel, or a priest of any
 4 denomination, or editor, a member of the clergy of any
 5 religion following his profession;
 6 (e) an editor following his profession;
 7 5=(f) A a teacher in a university, college, academy,
 8 or school;
 9 (g) an employee of the Montana state school for the
 10 deaf and blind;
 11 6=(h) A a practicing physician, dentist, or druggist
 12 actually engaged in the business of dispensing medicines;
 13 or
 14 (i) a regularly licensed embalmer or undertaker;
 15 7=(j) An an officer, keeper, or attendant of a
 16 hospital, asylum, mental health facility, or other charitable
 17 institution;
 18 8=(k) Engaged in the performance of duty as an officer
 19 or attendant of the state prison, penitentiary, or of a
 20 county jail on active duty;
 21 9=(l) An an express agent, mail carrier, or
 22 superintendent, employee, or operator of a telegraph line
 23 doing general telegraph business in the this state;
 24 10=(m) An an active member of the national guard of
 25 Montana; or

1 (n) an active member of a fire department of any city
 2 or town of this state; The number of firemen hereby
 3 exempted must not exceed twenty-eight (28), including
 4 officers for each company organized; and such members from
 5 each company must be selected from the roll of such company
 6 according to the seniority of membership, and a list
 7 containing the names of such persons must be made out by the
 8 secretary of each company and filed with the clerk of the
 9 board of county commissioners on the first Mondays of
 10 December, March, June, and September, and any failure to file
 11 the list hereby required is considered a waiver of such
 12 exemption;
 13 11=(o) A a superintendent on a railroad;
 14 12=(p) A a nurse engaged in a case; or
 15 (q) a person caring directly for one or more children.
 16 (2) The number of firemen exempted under subsection
 17 (1)(n) may not exceed 28, including officers, for each
 18 company organized. The exempt members shall be selected
 19 from the roll of each company according to the seniority of
 20 membership. The secretary of each company shall make a list
 21 of the exempt members and file it with the clerk of the
 22 board of county commissioners on the first Mondays of March,
 23 June, September, and December. Failure to file the list is
 24 considered a waiver of the exemption.
 25 (3) When a person claims exemption under subsection

1 ~~(1)(g). the certificate of the superintendent of the school,~~
 2 ~~under the official seal of the school, is sufficient~~
 3 ~~evidence of qualified employment.~~

4 (4) The court must discharge a person from serving as
 5 a trial juror, in either of the following cases:

6 (a) Where ~~when~~ it satisfactorily appears that ~~he--or~~
 7 ~~she the person~~ is not competent; ~~and, or~~

8 (b) Where ~~when~~ it satisfactorily appears that ~~he--or~~
 9 ~~she the person~~ is exempt and claims the benefit of
 10 exemption."

11 Section 36. Section 93-1503, R.C.M. 1947, is amended
 12 to read as follows:

13 "93-1503. Drawing -- how conducted. ~~1=~~(1) The clerk
 14 must ~~shall~~ place ~~said the~~ box on a rod so that ~~the--same~~ it
 15 may readily revolve, ~~and--said the~~ box must be revolved a
 16 sufficient number of times ~~so--as~~ to ensure that the numbered
 17 slips in ~~said--box--shall~~ it become thoroughly mixed, ~~and~~
 18 thereafter ~~hereafter~~ the judge must ~~shall~~ draw from ~~said~~
 19 ~~the box,~~ one ~~it~~ at a time, as many of the numbered slips as
 20 are ordered by the court.

21 ~~2=~~(2) A minute ~~record~~ of the drawing shall be entered
 22 in the minutes of the court, ~~which~~ it must show the names
 23 of the jurors corresponding to the numbers ~~so~~ drawn from
 24 ~~said the~~ jury box.

25 ~~3=~~(3) If ~~the court is satisfied that the name--of~~ any

1 person ~~whose name is~~ so drawn is deceased or insane,
 2 ~~mentally incompetent~~ or who ~~may have~~ has permanently removed
 3 ~~moved~~ from the county, ~~and the fact shall be made to--appear~~
 4 ~~to--the--satisfaction--of--the--court,~~ the name of ~~such the~~
 5 person shall be omitted from the list, and another juror
 6 ~~name shall be~~ drawn in ~~his its~~ place, ~~and the fact the~~
 7 ~~reason for the omission~~ shall be entered upon the minutes of
 8 the court. The same proceeding ~~procedure~~ shall be had
 9 ~~followed~~ as often as may be necessary, until the number of
 10 ~~names~~ of jurors required ~~shall~~ have been drawn.

11 (4) After the drawing ~~shall have~~ has been completed,
 12 the clerk shall make a copy of the list of names ~~of the~~
 13 ~~persons--so drawn,~~ and certify the same. In his certificate
 14 he shall state the date of the order and of the drawing, ~~and~~
 15 the number of the ~~jurors~~ names drawn, and the time when and
 16 the place where ~~such the~~ jurors ~~shall--be~~ are required to
 17 appear.

18 (5) Such ~~the~~ certificate and list shall be delivered
 19 to the sheriff for service.

20 ~~4=~~(6) No person ~~shall may~~ be asked to serve ~~on for~~
 21 more than one term during any year unless all the numbers in
 22 ~~the jury box~~ ~~have~~ have been drawn and there are no other
 23 qualified jurors available."

24 Section 37. Section 93-1603, R.C.M. 1947, is amended
 25 to read as follows:

1 "93-1603. Officer's return. The officer, summoning such
2 the jurors shall, at the time fixed in the order for their
3 appearance, return ~~it~~ the order to the court with a list of
4 the persons summoned endorsed thereon."

5 Section 38. Section 93-1802, R.C.M. 1947, is amended
6 to read as follows:

7 "93-1802. How constituted. ~~(1) When~~ 11 of the persons
8 summoned as grand jurors ~~who are~~ competent and not excused
9 ~~eleven-(11)~~ are present, they constitute the grand jury.

10 ~~(2) If when~~ more than ~~eleven-(11)~~ of such persons are
11 present, the clerk ~~must~~ shall write their names on separate
12 ballots, and place the ballots in black capsules, ~~which the~~
13 ~~the~~ capsules shall be deposited in a box large enough to
14 hold all of the capsules without crowding, ~~and which the~~
15 ~~the~~ box shall be so arranged that the clerk drawing the
16 capsules from the box ~~shall be is~~ unable to observe--or see
17 the capsule he is about to draw, ~~and the clerk shall draw~~
18 ~~out eleven-(11) of them, capsules, and the the~~ persons whose
19 names are on the ballots so drawn shall constitute the grand
20 jury.

21 ~~(3) If when~~ less than ~~eleven-(11)~~ of such persons are
22 present, the court ~~may~~ shall order a sufficient number to be
23 forthwith immediately drawn from either ~~the jury~~ box and
24 summoned to attend the court. ~~And whenever, of--the--persons~~
25 ~~to complete a grand jury, more attend than are required, the~~

1 ~~requisite number must be obtained by writing the names of~~
2 ~~those so summoned and not excused on ballots, which the~~
3 ~~ballots shall be placed in black capsules, and thereafter~~
4 ~~deposited in a box, and then drawn as above provided."~~

5 Section 39. Section 93-1803, R.C.M. 1947, is amended
6 to read as follows:

7 "93-1803. Manner of impaneling grand jury prescribed.
8 ~~Thereafter such proceedings must be had in impaneling the~~
9 ~~grand jury After the jurors have been selected, the grand~~
10 ~~jury shall be impaneled as are prescribed in sections~~
11 ~~94-6301 to 94-6319 95-1401 through 95-1403."~~

12 Section 40. Section 93-1805, R.C.M. 1947, is amended
13 to read as follows:

14 "93-1805. Clerk to call list of jurors summoned,
15 prepare capsules. At the opening of court on the day trial
16 jurors have been summoned to appear, the clerk shall call
17 the names of those summoned, and the court may then hear the
18 excuses of jurors summoned.

19 ~~(2) The clerk shall then write the names of the jurors~~
20 ~~present and not excused upon on separate slips or ballots of~~
21 ~~paper, and fold such slips the ballots so that the names are~~
22 ~~concealed, and place said slips them in black capsules, and~~
23 ~~there, in the presence of the court, the clerk shall~~
24 ~~deposit the capsules containing said slips or the ballots in~~
25 ~~a box large enough to hold all of said the capsules without~~

1 crowding₂ and which said The box shall be so arranged that
 2 the clerk judge drawing said the capsules from said the box
 3 shall--be is unable to observe or see the capsules he is
 4 about to draw₂ and which said The box must be kept sealed
 5 or locked until ordered by the court to be opened."

6 Section 41. Section 93-1806, R.C.M. 1947, is amended
 7 to read as follows:

8 "93-1806. Manner of impaneling --how-prescribed. (1)
 9 Whenever thereafter a civil action is called by the court
 10 for trial₂ and a jury is required, such-proceedings-shall-be
 11 had-in-impaneling the trial jury shall be impaneled as are
 12 prescribed in sections 93-5001 to through 93-5015.

13 (2) If When the action be is a criminal one, the jury
 14 shall be impaneled as prescribed in Title 94 25."

15 Section 42. Section 93-1809, R.C.M. 1947, is amended
 16 to read as follows:

17 "93-1809. Manner of impaneling. Thereafter The jury
 18 shall be impaneled as provided in:

19 (a) Title 95, if the action is a criminal one₂--the
 20 jury-must-be-impaneled-as-provided-in-title-94;

21 (b) Sections 93-5001 through 93-5015, if the action is
 22 a civil one₂ as-provided-in-sections-93-5001-to-93-5015."

23 Section 43. Section 93-1903, R.C.M. 1947, is amended
 24 to read as follows:

25 "93-1903. Matters written out and filed. All

1 objections made₂ during the trial or hearing and the
 2 rulings, decisions, and opinions of the court₂--and--the
 3 exceptions--taken--during--the--trial--or--hearing₂ must be
 4 written out at length or printed in type by the reporter₂
 5 and filed with the clerk forthwith immediately after the
 6 close of the trial or hearing₂ and--thereafter--such
 7 exceptions--may--be--settled--in--a--bill--of--exceptions₂--as
 8 provided-in-section-93-5505."

9 Section 44. Section 93-1904, R.C.M. 1947, is amended
 10 to read as follows:

11 "93-1904. To-furnish-copies-to-parties₂--etc copies of
 12 proceedings. (1) Each reporter specified--in--this--chapter
 13 must likewise furnish₂ upon request, furnish₂ with all
 14 reasonable diligence, to the defendant in a criminal cause₂
 15 case or a party or his attorney in a civil cause₂ case in
 16 which he has attended the trial or hearing₂ a copy, written
 17 out at length or in narrative form₂ from his stenographic
 18 notes, of the testimony and proceedings upon the trial or
 19 hearing₂ or a part thereof, upon-the-trial-or-hearing₂ upon
 20 payment by the person requiring the same₂ of the--sum-of
 21 seven-and-one-half-cents-(\$075) 7 1/2 cents per folio.

22 (2) If the county attorney₂ or attorney general₂ or
 23 judge requires such a copy in a criminal cause case₂, the
 24 reporter is entitled to his fees therefor₂ but he must
 25 furnish it₂ and-upon Upon furnishing it, he shall receive a

1 certificate of the sum to which he is so entitled, which is
2 a county charge, and must be paid by the county treasurer
3 upon the certificate like other county charges.

4 (3) If the judge requires such a copy in a civil case
5 to assist him in rendering a decision, the reporter must
6 furnish the same without charge therefor. In civil cases,
7 all transcripts required by the county shall be furnished
8 without cost.

9 (4) If it appears to the judge that a defendant in a
10 criminal case is unable to pay for such a copy, ~~the same it~~
11 ~~shall be furnished to him and paid for by the county."~~

12 Section 45. Section 93-1906, R.C.M. 1947, is amended
13 to read as follows:

14 "93-1906. Salary and expenses of ~~reporter~~ --
15 apportionment. (1) ~~Every Each~~ reporter appointed under the
16 ~~provisions of this chapter~~ is entitled to receive an annual
17 salary of not less than ~~twelve thousand five hundred dollars~~
18 ~~(\$12,500) and not~~ or more than ~~sixteen thousand dollars~~
19 ~~(\$16,000) and no other compensation except as provided in~~
20 ~~93-1904, said the~~ salary to ~~shall~~ be set by the judge in the
21 district in which the reporter works, ~~and no other~~
22 ~~compensation except as provided in section 93-1904,~~
23 ~~provided, however, that all transcripts and bills of~~
24 ~~exceptions required by the county shall be furnished without~~
25 ~~cost. It is~~ payable in monthly installments out of the

1 general funds of the counties comprising the district for
2 which he ~~the reporter~~ is appointed, ~~according--and~~ in
3 proportion to the number of civil and criminal actions
4 ~~entered--and~~ commenced in the district courts ~~court of such~~
5 ~~counties in and for each county respectively in the~~
6 ~~preceding years, and it shall be the duty of the the~~ judge
7 of such ~~the~~ district ~~shall~~, on the first day of January 1 of
8 each year, or as soon thereafter as possible ~~may--be~~, to
9 apportion the amount of such ~~the~~ salary to be paid by each
10 county in his district on the basis prescribed in this
11 subsection aforesaid.

12 (2) In judicial districts comprising more than one
13 county, the the reporter is allowed, in addition to the
14 salary and fees provided for in subsection (1) above
15 provided, in judicial districts comprising more than one (1)
16 county, his actual and necessary expenses of transportation
17 and living when he goes on official business to a county of
18 his judicial district other than the county in which he
19 resides, from the time he leaves his place of residence
20 until he returns thereto, ~~said the~~ expenses to ~~shall~~ be
21 apportioned and payable in the same way as the salary."

22 Section 46. Section 93-5008, R.C.M. 1947, is amended
23 to read as follows:

24 "93-5008. Ballots when drawn from box No. 3 Procedure
25 when insufficient number attend. (1) If a sufficient number

1 of jurors duly drawn and notified do not attend to form a
 2 jury, ~~or a jury is impaneled to another cause and not~~
 3 ~~discharged,~~ the district judge shall, pursuant to an order
 4 to be entered in the minutes, in the presence of the clerk
 5 of the court draw a sufficient number of ballots from ~~the~~
 6 ~~box now specified in section 93-1586,~~ to complete the
 7 jury. The sheriff ~~must~~ shall notify the persons thus drawn
 8 to attend forthwith, immediately or at a time fixed by
 9 court. If for any reason a sufficient number of jurors to
 10 try the issue is not obtained from the persons notified,
 11 under an order made as prescribed in this section, the court
 12 may make another order, or successive orders, until a
 13 sufficient number is obtained.

14 (2) Each person so notified must attend at ~~a~~ the time
 15 required by the notice, and, unless excused by the court or
 16 set aside, must serve as a juror upon the trial. For a
 17 neglect or refusal ~~so to do so,~~ he may be fined in the same
 18 manner as ~~a~~ any other trial juror regularly drawn and
 19 notified, ~~as prescribed in this code,~~ and he is subject to
 20 the same exceptions and challenges as any other trial
 21 juror."

22 Section 47. Section 93-7501, R.C.M. 1947, is amended
 23 to read as follows:

24 "93-7501. Contempts a justice may punish for. A
 25 justice may punish ~~as~~ for contempt, persons guilty of the

1 following acts, and no other:

2 1. (1) ~~Disorderly~~ disorderly, contemptuous, or insolent
 3 behavior toward the justice while holding the court, tending
 4 to interrupt the due course of a trial or other judicial
 5 proceeding;

6 2. (2) ~~A~~ a breach of the peace, boisterous conduct, or
 7 violent disturbance in the presence of the justice, or in
 8 the immediate vicinity of the court held by him, tending to
 9 interrupt the due course of a trial or other judicial
 10 proceeding;

11 3. (3) ~~Disobedience~~ disobedience or resistance to the
 12 execution of a lawful order or process, made or issued by
 13 him, the justice;

14 4. (4) ~~Disobedience~~ disobedience to a subpoena duly
 15 served, or ~~refusing~~ refusal to be sworn or to answer as a
 16 witness;

17 5. (5) ~~Rescuing~~ rescuing any person or property in the
 18 custody of an officer by virtue of an order or process of
 19 the court, ~~held by him~~."

20 Section 48. Section 93-7602, R.C.M. 1947, is amended
 21 to read as follows:

22 "93-7602. Entries ~~therein primary evidence of the~~
 23 facts ~~How entries made -- prima facie evidence.~~ The ~~several~~
 24 ~~particulars of the test section specified~~ items listed in
 25 93-7601 must be entered in the docket under the title of the

1 action to which they relate, and, unless otherwise provided
 2 in sections 93-6601 to-93-7884-provided, through 93-7714, at
 3 the time when they occur. Such entries in a justice's
 4 docket, or a transcript thereof, certified by the justice
 5 or his successor in office, are prima-facie prima facie
 6 evidence of the facts so stated."

7 Section 49. Section 93-7605, R.C.M. 1947, is amended
 8 to read as follows:

9 "93-7605. Proceedings when office becomes vacant and
 10 before-a-successor-is-appointed. If the office of a justice
 11 become ~~becomes~~ vacant by ~~because of~~ his death, or OR his
 12 removal from the county, or otherwise ~~FOR any other cause~~
 13 before his successor is elected-and-qualified appointed, the
 14 docket and papers ~~that were~~ in his possession of-such
 15 justice-must shall be deposited in the office of some other
 16 justice in the county, to-be-by-him-delivered who shall
 17 deliver them to the successor of such the former justice. If
 18 there is no other justice in the county, then the docket and
 19 papers of-such-justice-must shall be deposited in the office
 20 of the county clerk, to-be-by-him-delivered who shall
 21 deliver them to the successor in office of the former
 22 justice."

23 Section 50. Section 93-7607, R.C.M. 1947, is amended
 24 to read as follows:

25 "93-7607. Justice--elected--to-fill-vacancy Who is the

1 successor. The justice elected appointed to fill a vacancy
 2 is the successor of the justice whose office became vacant
 3 before the expiration of a full term. When a full term
 4 expires, the same--or--another person elected to take the
 5 numbered office, as provided in 93-401, in the--same--county
 6 from that time is the successor."

7 Section 51. Section 93-7704, R.C.M. 1947, is amended
 8 to read as follows:

9 "93-7704. ~~Calling--another--justice--when--by--whom~~
 10 Acting justices. (1) Disqualifications (a) When whenever a
 11 justice of the peace is disqualified from acting on in any
 12 action because of the application of subsection (1), (2), or
 13 (3) of section 93-901, he shall either transfer the action
 14 to another justice court in the same county or call a
 15 justice from a neighboring county to preside in his behalf,
 16 who--while-so-acting-is-vested-with-the-power-of-the-justice
 17 for-whom-he-so-holds-court,

18 ~~(2)(b) illness--or--absence in case--of--sickness~~
 19 Whenever a justice is sick, disability disabled, or absence
 20 of-a-justice absent and for-such-a-period-of-time--that the
 21 county commissioners of--the--county find that there is a
 22 delay in the proper administration of justice or upon--the
 23 written--request--of the county attorney makes a written
 24 request, another justice, if there is one readily available,
 25 or a police city judge or some other qualified person shall

1 be called in to hold court for the absent justice until the
2 his return, of the absent justice, and when so called and so
3 acting that person is vested with the power of the justice
4 for whom he so holds court.

5 (3)(c) Vacation. During the time when a justice of
6 the peace is on vacation or attending a training session,
7 another justice of the peace of the same county shall be
8 authorized to handle matters that otherwise would be handled
9 by the absent justice. When there is no other justice of
10 the peace in the county, the county commissioners shall
11 handle the situation in the same manner as if the justice
12 were sick or absent.

13 (4)(2) Necessary expenses. Whenever a justice of the
14 peace or other another person is called in to preside over
15 the court of a justice who is disqualified, sick, or absent
16 under subsection (1), that the visiting justice of the peace
17 or other person shall be paid all necessary and actual
18 expenses including mileage, and if that if the acting
19 justice is not a justice of the peace receiving a salary,
20 then that acting justice he shall also receive such
21 compensation as is proper for the time involved. Such
22 expenses shall be the cost of implementing this subsection
23 is a proper charge against the county where the court is
24 held.

25 (5)(3) Court docket entries. When another justice or

1 any other qualified person is called to preside in a justice
2 court, proper entries of all proceedings must be made in the
3 docket of the justice for whom the visiting justice or
4 person holds court. When the appointment is made by order
5 of the county commissioners, the order shall be placed in
6 the court docket.

7 (6)(4) Jurisdiction of called-in person. When called
8 in to preside over a justice court as above provided, the
9 visiting justice of the peace or other qualified person
10 while acting as justice of the peace is vested with all the
11 power of the justice for whom he so holds court."

12 Section 52. Section 93-7707, R.C.M. 1947, is amended
13 to read as follows:

14 "93-7707. What provisions of code applicable to
15 justices' courts. Justices' courts. Because justices' courts, being
16 are courts of peculiar and limited jurisdiction, only those
17 provisions of this code which are, in their nature,
18 applicable to the organization, powers, and course of
19 proceedings in justices' courts or which have been made
20 applicable by special provisions in sections 93-6601 to
21 93-7804, through 93-7714 are applicable to justices' courts
22 and the proceedings therein."

23 Section 53. Section 93-7709, R.C.M. 1947, is amended
24 to read as follows:

25 "93-7709. Special Deputy constables -- appointment. If

1 in any county there ~~should be~~ is no ~~duty~~ appointed or
 2 ~~qualified~~ constable, the board of county commissioners in
 3 the county may, at the request of a party, after being
 4 satisfied that it is expedient to do so, specially ~~depute~~
 5 ~~deputize~~ any proper person of suitable age not interested in
 6 the action to serve a summons, with or without an order to
 7 arrest the defendant--~~or~~ and with or without a writ of
 8 attachment, or to serve an execution. The ~~justice--shall--be~~
 9 ~~county commissioners are~~ liable upon his ~~their~~ official bond
 10 ~~bonds~~ for all official acts of the person so ~~deputed~~
 11 ~~deputized. Such deputation. The appointment of the deputy~~
 12 shall be ~~made~~ in writing ~~made~~ on the process, and a note
 13 thereof ~~shall be~~ made on the justice's docket."

14 Section 54. Section 93-2801-3, R.C.M. 1947, is amended
 15 to read as follows:

16 "93-2801-3. Distribution of proposed rules --
 17 ~~suggestions of to~~ bench and bar --~~petitions of professional~~
 18 ~~associations. Before any rule is adopted, the supreme court~~
 19 shall distribute copies of the proposed rule to the bench
 20 and bar of the state for their consideration and suggestions
 21 and ~~shall~~ give due consideration to such suggestions as they
 22 may submit to the court. The ~~Montana Bar Association state~~
 23 ~~bar of Montana~~ or the ~~Association~~ association of Montana
 24 ~~judges judges~~ may file with the supreme court a petition
 25 specifying ~~their its~~ suggestions concerning any existing or

1 proposed rule and requesting a hearing thereon within ~~six~~
 2 ~~ten~~ months after the filing of the petition."

3 Section 55. Section 95-2009, R.C.M. 1947, is amended
 4 to read as follows:

5 "95-2009. Appeal. ~~ten~~ All cases on appeal from
 6 justices' or police city courts must be tried anew in the
 7 district court and may be tried before a jury of six ~~ten~~
 8 ~~which may be drawn from either the regular panel or jury box~~
 9 ~~ten~~3.

10 ~~ten~~12 The defendant may appeal to the district court
 11 by giving written notice of his intention to appeal within
 12 ~~ten days--ten~~ days after judgment.

13 ~~ten~~13 Within ~~thirty--ten~~ days the entire record of
 14 the justice ~~justice's~~ or police city court proceedings shall
 15 be transferred to the district court or the appeal shall be
 16 dismissed. It ~~shall be~~ is the duty of the defendant to
 17 perfect the appeal."

18 Section 56. Section 93-1404, R.C.M. 1947, is amended
 19 to read as follows:

20 "93-1404. Duty of clerk -- jury boxes ~~box~~. The clerk
 21 shall prepare and keep a jury box and contents as ~~follows--~~
 22 ~~prescribed in this section.~~ The number of each juror shall
 23 be written, typed, or stamped on a slip of paper or other
 24 suitable material, identical in all respects, to the slips
 25 used for the other numbers. ~~and The slips shall be~~ placed in

1 a box of ample size to permit ~~said numbers~~ them to be
 2 thoroughly mixed, ~~and which said the~~ box shall be kept ~~for~~
 3 ~~that purpose and shall be known as~~ and plainly marked,
 4 "jury box ~~Now it~~". The numbers slips may be used as often as
 5 necessary, ~~provided, however, except that~~ none shall may be
 6 used which is in any manner ~~whatsoever~~ defaced or
 7 disfigured, or so marked that it may be recognized or
 8 distinguished from the others in ~~said the~~ jury box ~~Now it~~
 9 except by the number thereon. ~~There shall be so enclosed in~~
 10 ~~said box one number, and only one number. The box shall~~
 11 contain only one slip for each number corresponding to the
 12 number before the name of each juror on the jury list."

13 Section 57. Section 93-1502, R.C.M. 1947, is amended
 14 to read as follows:

15 "93-1502. District judge to draw jury. Immediately
 16 ~~upon after~~ the order mentioned in the ~~preceding section~~
 17 ~~having 93-1501 has~~ been made, the district judge shall in
 18 the presence of the clerk of the court proceed to draw the
 19 jurors by number from ~~the~~ jury box ~~Now it~~."

20 Section 58. Section 93-1512, R.C.M. 1947, is amended
 21 to read as follows:

22 "93-1512. ~~Brawing additional jurors when originat~~
 23 ~~number insufficient order designating number~~
 24 ~~needed selection from portion of county only notification~~
 25 ~~of jurors~~ Obtaining additional jurors when necessary.

1 Whenever it appears to a district judge that additional
 2 jurors will be needed for any term or trial, the judge shall
 3 draw as many numbers from ~~the~~ jury box ~~Now it~~ as are
 4 necessary to secure the required number of additional
 5 jurors. Before drawing the numbers, the judge shall by
 6 appropriate order designate the number of jurors needed,
 7 and when the judge believes that securing the additional
 8 jurors from all of the county would cause unnecessary delay
 9 or expense, then he may order the jurors selected from only
 10 a designated portion of the county, which portion shall
 11 never be less than the corporate limits of the county seat.
 12 If, in the selection of the additional jurors, a number is
 13 drawn and the jury list shows the person represented by the
 14 number to be a resident of an area outside the area
 15 designated by the court order, ~~then~~ that number shall be
 16 returned to the jury box and a new number drawn. When the
 17 required number of names have been selected, the judge may
 18 order the prospective jurors notified by telephone by the
 19 clerk of the court or he may order them summoned by the
 20 sheriff either by certified mail or by personal service."

21 Section 59. Section 93-1801, R.C.M. 1947, is amended
 22 to read as follows:

23 "93-1801. Grand jury -- when and how ~~to be impaneled~~
 24 drawn and summoned. Whenever in the opinion of the district
 25 judge a grand jury is necessary, he must make an order

1 directing a grand jury to be drawn and summoned to attend
 2 before the court. The order must specify the number of such
 3 jurors to be drawn, which must not be less than fifteen-~~(15)~~
 4 nor or more than twenty-~~(20)~~. The names of such ~~the~~ jurors
 5 must be drawn from ~~the~~ jury box ~~Now-ly~~ mentioned in section
 6 93-1404~~1~~, and--the ~~the~~ list of names shall be certified and
 7 ~~the jurors summoned, as provided for drawing and summoning~~
 8 ~~in the same manner as for trial jurors,~~ and the ~~the~~ names
 9 of any persons drawn who ~~may are~~ not be impaneled upon ~~on~~
 10 the grand jury must be again placed in said ~~the~~ jury box ~~Now~~
 11 ~~it.~~"

12 Section 60. Repealer. Sections 11-1709, 16-3606,
 13 93-221 through 93-233, 93-703, and 93-7608, R.C.M. 1947,
 14 are repealed.

-End-